

**Council for Trade-Related Aspects
of Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY LAWS AND REGULATIONS
NOTIFIED UNDER ARTICLE 63.2 OF THE AGREEMENT**

INDONESIA

The present document reproduces the text¹ of the following laws and regulations, as notified by Indonesia under Article 63.2 of the Agreement (see document IP/N/1/IDN/2):

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**Conseil des aspects des droits de propriété
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA PROPRIÉTÉ
INTELLECTUELLE NOTIFIÉES AU TITRE DE L'ARTICLE 63:2 DE L'ACCORD**

INDONÉSIE

Le présent document contient le texte¹ des lois et réglementations ci-après, notifiées par l'Indonésie au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/IDN/2):

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**Consejo de los Aspectos de los Derechos de Propiedad
Intellectual relacionados con el Comercio**

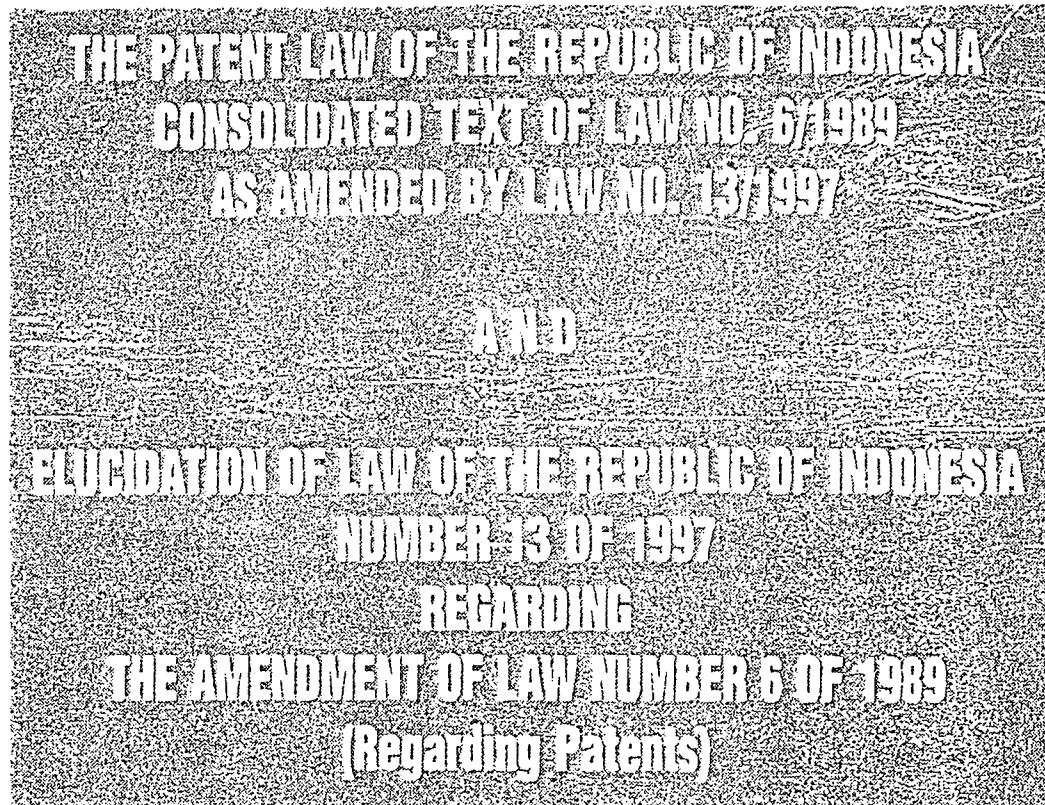
**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA PROPIEDAD INTELECTUAL
NOTIFICADOS EN VIRTUD DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

INDONESIA

En el presente documento se reproduce el texto¹ de las leyes y reglamentos notificados por Indonesia en virtud de lo dispuesto en el párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/IDN/2):

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¹ Distributed in English only. The texts of these laws in the original language are available for consultation by interested Delegations at the WTO Secretariat./En anglais seulement. Les délégations intéressées peuvent consulter les textes de ces lois, dans leur langue d'origine, au Secrétariat de l'OMC./Distribuido en inglés solamente. Las delegaciones interesadas podrán consultar en la Secretaría de la OMC los textos de estas leyes en su idioma original.



THE PATENT LAW OF THE REPUBLIC OF INDONESIA

CONSOLIDATED TEXT OF LAW NO.6/1989 AS AMENDED BY LAW NO.13/1997

CHAPTER I GENERAL PROVISIONS

Article 1

1. Patent means an exclusive right granted by the State to an inventor for his invention in the field of technology, for a certain time, to use his invention or to authorise another person to use it.
2. Invention means any activity of solving a certain problem in a field of technology, either in the form of a production process or product or an improvement or enhancement of a production process or product.
3. *Inventor means a person or several persons acting together conducting activities resulting in an invention.*
4. Patent holder means an inventor as the owner of patent or a recipient of such right from the owner of a patent or a subsequent recipient of the patent from the person mentioned above who is registered in the General Register of Patents.
5. *Patent examiner means an official who because of his expertise is appointed by the Minister, or by the International Patents Office to search and examine patent applications.*
6. Minister means the Minister whose scope of duties and responsibilities includes the guidance of patents.
7. Patent Office means the organisational unit within the governmental department which undertakes duties and authorities in field of patents.

CHAPTER II SCOPE OF PATENTS

Part One Patentable Inventions

Article 2

- (1) A Patent shall be granted to an invention which is novel, contains an inventive step and is capable of industrial application.
- (2) An invention contains an inventive step if said invention does not constitute something obvious to a person possessing average technical skills.
- (3) Evaluation of whether or not an invention constitutes something obvious must be made taking into account the state of the art at the time the patent application is filed or which prevailed at the time the first application was filed where the application is filed on the basis of a priority right.

Article 3

- (1) *An invention is deemed to be novel, if at the time of filing of the patent application said invention is not the same or is not a part of any previous invention.*
- (2) *A previous invention as referred to in paragraph (1) is an invention which at the time of or before;*
 - a. the date of filling of a patent application, or*
 - b. the date of filing of a patent application claiming priority rights,**has been announced in Indonesia or outside Indonesia in a manner which enables an expert to implement said invention, or has been announced in Indonesia by a verbal description or by a demonstration of its use or in other ways which enable an expert to implement said invention.*

Article 4

- (1) *An invention shall not be deemed to have been announced, if, within a period of at most 6 (six) months prior to the filing of patent application;*
 - a. *the invention was exhibited in an official or officially recognised international exhibition in Indonesia or abroad or in an official and officially recognised national exhibition in Indonesia.*
 - b. *the invention was used in Indonesia by its inventor in relation to experimentation for research and development.*
- (2) *An invention shall also not be deemed to have been announced, if, within a period of 12 (twelve) months prior to the filing of patent application, it was announced by any other person by way of breaching an obligation to maintain the secrecy of the invention.*

Article 5

An invention is capable of industrial application if said invention can be produced or can be used in various types of industry.

Article 6

- (1) *Any invention being a process or product which is novel and possesses the qualities of a simple invention which because of its shape, configuration, construction, or component, however, possesses practical use values, may granted legal protection in the form of a Simple Patent.*
- (2) *The requirement of novelty for invention as referred to in paragraph (1) shall be limited to inventions used in Indonesia.*

Part Two

Non-Patentable and Postponable Inventions

Article 7

A patent shall not be granted to:

- a. an invention regarding a process or product of which the announcement and use or implementation contravenes the prevailing regulations, public order or morality;
- b. *deleted;*
- c. *deleted;*
- d. an invention regarding methods of examination, treatment, medication, or and surgery applied to people and animals, but excluding any products whatsoever used with or related to said methods;
- e. an invention regarding a theory and method in the field of science and mathematics.

Article 8

- (1) It may be determined by Presidential Decision to postpone the granting of patents for certain inventions, either in the form of production processes or products, for a period of at most 5 (five) years, provided that such determination shall not apply to:
 - a. an invention which at that time has obtained or been granted a patent;
 - b. an invention which at the time of issuance of the Presidential Decision has been applied for a patent on the basis of a priority right.
- (2) After the expiration of the period of postponement as referred to in paragraph (1), the patent application shall directly be announced and a substantive examination carried out after the expiration of the period of announcement as provided by this Act.

Part Three

Duration of Patents

Article 9

- (1) *A patent shall be granted for a period of 20 (twenty) years commencing on the date of filing of patent application.*
- (2) *The date of commencement and expiry of a patent shall be recorded in the General Register of Patents and announced in the Official Patent Gazette.*

Article 10

A Simple Patent shall be granted for a period of 10 (ten) years commencing on the date of issuance of the Simple Patent Certificate.

Part Four

Patent Subjects

Article 11

- (1) The inventor or a subsequent recipient of the rights of the inventor shall be entitled to obtain a patent.
- (2) If an invention is produced jointly by several persons, subsequent recipients of their rights shall be jointly entitled to the invention.

Article 12

- (1) Unless proven otherwise, those persons who first submit a patent application shall be deemed to be the inventor.
- (2) A patent shall not be granted to those persons who submit a patent application as referred to in paragraph (1) if the application contains copied material taken from a description and or drawing regarding the invention of another person for which a patent has been requested or granted.

Article 13

- (1) Unless agreed otherwise in an employment contract, the person entitled to obtain a patent on an invention produced shall be the person who has commissioned the work.
- (2) The provision as referred to in paragraph (1) shall also be applicable to an invention by an employee or a worker using data and facilities available in his work even though the employment contract does not require him to produce an invention.
- (3) An inventor as referred to in paragraph (1) and paragraph (2) shall be entitled to receive just compensation based on the economic benefit that can be obtained from said invention.
- (4) The amount of compensation as referred to in paragraph (3) may be paid:
 - (a) in a lump sum; or
 - (b) as a percentage; or
 - (c) as a combination or a lump sum together with a gift or bonus; or
 - (d) a combination of percentage with a gift or bonus, the amount to be mutually agreed on by the parties concerned.
- (5) Where no agreement can be reached regarding the method of calculation and the determination of the amount of compensation, the local District Court may be requested to decide the matter.
- (6) The provisions as referred to in paragraph (1), paragraph (2) and paragraph (3) shall not in any way invalidate the right of the inventor to have his name included in the patent certificate.

Article 14

- (1) A person implementing an invention at the time a patent on a similar invention has been applied for, shall continue to have the right to implement the invention as the prior inventor, even though a patent is subsequently granted for said similar invention.

- (2) The provision as referred to in paragraph (1) shall also apply to a patent application filed on the basis of a priority right.

Article 15

The provision as referred to in Article 14 shall not apply if the person implementing said invention implemented it by using knowledge of said invention from a description, drawing, sample of or other information on the invention for which a patent has been requested.

Article 16

- (1) A person implementing an invention as referred to in Article 14 may be recognised as the prior inventor, if, after a patent has been granted for the similar invention, he submits a request to the Patent Office for this purpose.
- (2) An application for recognition as a prior inventor shall be accompanied by evidence that the implementation of said invention was not performed by using a description, drawing, or sample of, or other information on the invention for which a patent has been requested.
- (3) Recognition as prior inventor shall be issued by the Patent Office in the form of a Prior Inventor Certificate upon payment of a fee therefor.
- (4) A Prior Inventor Certificate shall expire at the same time as the expiry of the patent for said similar invention.

Part Five

Rights and Obligations of Patent Holder

Article 17

- (1) *A Patent Holder shall have the exclusive right to exploit his patent, and prohibit any other person who without his consent:*

- a. in the case of product patent: makes, sells, imports, rents out, delivers, uses, makes available for sale, or rental or delivery of the patented product;*
 - b. in the case of process patent: uses the patented production process to make products, and commits other activities as referred to in point a.*
- (2) In the case of process patent; such prohibition against any other person who without his consent commits the importation as referred to in paragraph (1) shall only apply to imported products solely produced from the use of the pertinent process patent.*

Article 18

- (1) A Patent Holder shall be obliged to implement his patent within the territory of the Republic of Indonesia.*
- (2) It shall be precluded from the obligation as referred to in paragraph (1), if the implementation of such patent, upon economic consideration, is only appropriate to be carried out in a regional scale.*
- (3) The exemption provided in paragraph (2) shall only be approved by the Patent Office if a written application is filed the Patent Holder, furnished with considerations and evidence given by the authorised Government offices.*
- (4) Requirements for the exemption and procedures of submitting a written application as referred to in paragraph (3) shall be further regulated by a Government Regulation.*

Article 19

For purposes of maintaining the validity of a patent and the recording of licenses, the Patent Holder or Licensee must pay maintenance fees referred to as annual fees.

Part Six

Exceptions to Patent Implementation and Infringement

Article 20

The importation of patented products or products made by a patented production process shall not constitute patent implementation.

Article 21

In the case of the importation of a product made by using a process protected under this Law, the Patent Holder of the said patented process shall have the rights as provided for in Article 17 paragraph (2) to implement a legal effort on the imported product if said product was made in Indonesia by using the patented process.

Article 22

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CHAPTER III

PATENT APPLICATIONS

Part One

General

Article 23

A patent shall be granted on the basis of an application.

Article 24

Each patent application may be filed for one invention only.

Article 25

The patent application shall be filed by payment of a fee to the Patent Office the amount of which shall be stipulated by the Minister.

Article 26

- (1) If a patent application is filed by a person other than the inventor, the application must be accompanied by a statement with adequate supporting evidence that he is entitled to the invention concerned.
- (2) The Patent Office shall be obligated to send a copy of the statement as referred to in paragraph (1) to the inventor.
- (3) The inventor may examine the patent application form filed by a person other than the inventor as referred to in paragraph (1) and may at his own expense request a copy of said application documents.

Article 27

- (1) A patent application may be filed through a Patent Consultant in Indonesia as proxy, except in certain cases regulated otherwise in this Law.
- (2) A Patent Consultant as referred to in paragraph (1) shall be a consultant registered in the Register of Patent Consultants at the Patent Office.
- (3) Beginning on the date of receipt of the proxy until the date of announcement of the patent application concerned, the Patent Consultant shall be obligated to preserve the confidentiality of the invention and all patent application documents.
- (4) Provisions regarding requirements for registration as a Patent Consultant shall be regulated by Government Regulation.

Article 28

- (1) A patent application filed by an inventor or someone who has a right to the invention who does not reside or have a fixed domicile in the territory of the Republic of Indonesia must be filed through a Patent Consultant in Indonesia as proxy.
- (2) The inventor or someone who has a right to the invention as referred to in paragraph (1) must declare and elect a residence

or legal domicile in Indonesia for the purpose of said patent application.

Article 29

- (1) A patent application filed by use of a priority right as regulated by an international convention on patent protection adhered to by the Republic of Indonesia, must be filed within 12 (twelve) months commencing on the date on which the first patent application was received by any country also participating in said convention.
- (2) By fully observing the provisions of this Law regarding the requirements which must be fulfilled in a patent application, a patent application with a priority right as referred to in paragraph (1) must be accompanied by a copy of the first patent application form validated by the competent authority in the country concerned within a period of 6 (six) months commencing on the date of said patent application, provided that the time limit as referred to in paragraph (1) is not exceeded.
- (3) If the requirements in paragraph (1) and paragraph (2) are not fulfilled, a patent application may not be filed by using a priority right.

Article 30

- (1) A patent application shall be filed to the Patent Office in writing in the Indonesian Language.
- (2) The patent application form must contain:
 - a. date, month and year of application;
 - b. clear and full address of the applicant filing the application intended by letter a;
 - c. full name and citizenship of the inventor;
 - d. where the application is filed by a Patent Consultant as proxy, the full name and address of the proxy concerned;

- e. a special power of attorney, where the application is filed by a patent consultant;
 - f. a request that a patent be granted;
 - g. title of invention;
 - h. a claimed implied in the invention;
 - i. a written description of the invention which contains complete information on way of implementing the invention;
 - j. drawings mentioned in the description required for clarification;
 - k. an abstract regarding the invention.
- (3) Further provisions regarding the filing of patent applications shall be regulated by the Minister.

Part Two

Patent Application with a Priority Right

Article 31

- (1) In addition to the copy of the application form as referred to in Article 29 paragraph (2), the Patent Office may request that a patent application by use of a priority right also be accompanied by:
- a. a valid copy of the documents connected with the results of examination carried out with respect to the first patent application abroad;
 - b. a valid copy of the patent certificate granted in connection with the first application abroad;
 - c. a valid copy of the decision of the rejection of the first patent application abroad if said application was rejected;
 - d. a valid copy of the decision of cancellation of the foreign patent application concerned if said patent was ever cancelled;

- e. other documents required to facilitate an evaluation that the invention for which a patent is requested is indeed a new invention and truly contains an inventive step.
- (2) The filing of copies of documents as referred to in paragraph (1) may be accompanied by separate additional explanations by the patent applicant.

Article 32

Further provisions regarding the filing of patent application by use of a priority right shall be regulated by Government Regulation.

Part Three

Time of Receipt of a Patent Application

Article 33

- (1) A patent application shall be deemed to have been filed on the date of receipt of the patent application by the Patent Office after payment of the fee as referred to in Article 25.
- (2) *The date of filing of patent application shall be the date the Patent Office has received the patent application fulfilling the requirements as referred to in Article 30.*
- (3) The date of filing of patent application shall be specially recorded by the Patent Office.

Article 34

- (1) If it is evident that there are deficiencies in fulfilling the requirements as referred to in Article 30, the Patent Office shall request that the deficiencies be corrected within a period of 3 (three) months commencing on the date of transmittal by the Patent Office of the letter requesting that the deficiencies be corrected.

- (2) Based on reasons acceptable to the Patent Office, the period as referred to in paragraph (1) may be extended by a maximum of 3 (three) months upon the request of the patent applicant.

Article 35

Where there are deficiencies as referred to in Article 34, the date of filing of patent application shall be the date of receipt by the Patent Office of the final corrections to said deficiencies.

Article 36

If the deficiencies have not been corrected within the period as referred to in Article 34, the Patent Office shall notify the patent applicant in writing that the patent application is deemed to have been withdrawn.

Article 37

If during the initial examination there are found to be two or more patent applications for the same invention, and one of them has been filed based on a priority right by the same person, the Patent Office shall be entitled to reject said applications on the grounds that only one patent application may be filed for the invention.

Article 38

- (1) If different persons have evidently filed more than one application for the same invention, only the application which was filed finally or prior in time may be accepted.
- (2) If the patent applications as referred to in paragraph (1) were filed on the same date, the Patent Office shall request in writing that the applicants negotiate to decide which application is to be filed and deliver the decision to the Patent Office at the latest 6 (six) months from the date of transmittal of the written request.
- (3) If an agreement or decision is not reached among the patent applicants or it is impossible for them to hold a negotiation or the results of the negotiation are not delivered to the Patent Office within the period as referred to in paragraph (2), said

patent applications shall be rejected and the Patent Office shall give notice thereof to the patent applicants in writing.

Part Four Amendments to a Patent Application

Article 39

- (1) *A patent application may be amended by adding or reducing the number of claims, provided that such amendments do not add new matters expanding the scope of invention applied for the original application.*
- (2) Amendments of an application as referred to in paragraph (1) shall be deemed to have been filed on the same date as the original application.

Article 40

- (1) *Amendments of an application as referred to in Article 39 may be filed separately in one or more applications provided that such amendments do not add new matters expanding the scope of invention applied for the original application.*
- (2) Where said amendments constitute a separation of an application as referred to in paragraph (1), said application shall be deemed to have been filed on the same date as the original application.

Part Five

Withdrawal of a Patent Application

Article 41

- (1) A patent application may be withdrawn by submitting a written request to the Patent Office.

- (2) Further provisions regarding the withdrawal of patent applications shall be regulated by Government Regulation.

Part Six

Extension of Patent Duration

Article 42

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Article 43

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Article 44

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Part Seven

Prohibitions on Patent Applications and Obligations to Preserve Confidentiality

Article 45

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Article 46

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CHAPTER IV

EXAMINATION

Part One

Announcement of Patent Applications

Article 47

- (1) *The Patent Office shall announce a patent application that has fulfilled the requirements of Article 29 and 30 and has not been withdrawn.*
- (2) *The announcement shall be carried out*
 - a. *18 (eighteen) months after the date of filing of patent application;*
 - b. *18 (eighteen) months after the date of filing of the first patent application, in the case of a patent application with a priority right.*

Article 48

- (1) Announcement shall last for 6 (six) months and be carried out by:
 - a. placement on a special announcement board provided exclusively for this purpose and which can be easily and clearly seen by the public, and;
 - b. placement of the Official Patent Gazette announced periodically by the Patent Office.
- (2) The date of commencement of the announcement of a patent application shall be recorded by the Patent Office in the register of announcements.

Article 49

The announcement shall list the followings:

- a. full name and address of the inventor or the person having a right to the invention and the patent consultant where the application was filed by patent consultant ;
- b. *deleted;*
- c. title of invention;

- d. the date of filing of patent application or, in the case of a patent application is filed with a priority right, the date, number and country where the patent application was first filed ;
- e. an abstract ;
- f. *classification of the invention ;*
- g. *drawings, if any.*

Article 50

The Patent Office will provide a special place to provide any interested member of the public with an opportunity to see the documents of announced patent applications.

Article 51

- (1) During the period of announcement, any person, after having seen the announcement of the patent application, may submit written comments or objections to the patent application concerned stating the reasons therefor.
- (2) Where there are any comments or objections as referred to in paragraph (1), the Patent Office shall immediately send a copy of the letter containing the comments or objections to the patent applicant.
- (3) The patent applicant shall have the right to submit to the Patent Office written denials and explanations with respect to such comments or objections.
- (4) The Patent Office shall use the comments or objections, denials and explanations as referred to in paragraph (1) and paragraph (3) as additional information for consideration during the examination of the patent application concerned.

Article 52

- (1) With the approval of the Minister, the Patent Office may decide not to announce a patent application, if it considers said invention and its announcement to be potentially disturbing or contrary to the interest of the defence and security of the State.

- (2) The decision not to announce a patent application as referred to in paragraph (1) shall be made known in writing to the patent applicant by the Patent Office with a copy to the inventor or the person having a right to the invention if the patent application was filed by a patent consultant.
- (3) The provisions as referred to in Article 48 and Article 49 shall not apply to an unannounced patent application.
- (4) Any consultation held by the Patent Office with other government agencies, including the forwarding of information concerning an invention for which a patent has been requested, which results in a decision not to announce the patent application, shall not be considered to be a violation of the obligation to preserve the confidentiality of the invention and the patent application documents concerned.
- (5) The provision as referred to in paragraph (4) shall not detract from the obligation of the government agencies concerned and their staff members to continue to preserve the confidentiality of the invention and the patent application documents towards any third party.

Article 53

- (1) An unannounced patent application shall be examined as to whether to grant or not to grant a patent, if:
 - a. a period of 6 (six) months has elapsed from the date of the decision of the Patent Office not to announce the patent application concerned;
 - b. said patent application has not been withdrawn.
- (2) The examination of the patent application as referred to in paragraph (1) shall be recorded by the Government without charging an examination fee to the patent applicant.

Article 54

Further provisions regarding announcement procedures shall be regulated by the Minister.

Part Two
Examination

Article 55

- (1) A request for the examination of a patent application must be filed to the Patent Office in writing together with the payment of a fee, the amount of which shall be stipulated by the Minister.
- (2) The request as referred to in paragraph (1) shall be a substantive examination.
- (3) The form and requirements for requests for examinations shall be regulated further by the Minister.

Article 56

- (1) A request to conduct a substantive examination must be filed at the latest 36 (thirty six) months from the date of filing of patent application but not earlier than the expiration date of announcement as referred to in Article 48.
- (2) If a request for examination has not been filed after the time limit as referred to in paragraph (1) has elapsed, or the pertinent fee has not been paid, the patent application shall be deemed withdrawn.
- (3) The Patent Office will notify the patent applicant in writing regarding the withdrawal of the patent application, with a copy forwarded to the inventor or the person who has a right to the invention if the patent application was filed by a patent consultant.
- (4) *The request for substantive examination filed as referred to in paragraph (1) shall be conducted the Patent Office after the expiration of the announcement period.*

Article 57

Without prejudice to all the foregoing provisions regarding examination, Article 51 shall not apply to unannounced patent applications.

Article 58

- (1) *For purposes of substantive examination, the Patent Office may request expert assistance and or utilise appropriate facilities from other Government agencies or may request the assistance from patent examiners of other Patent Offices.*
- (2) *The use of expert assistance and or facilities as referred to in paragraph (1) must be performed by observing the provisions concerning the obligation to maintain the secrecy of the invention for which a patent has been requested.*

Article 59

- (1) *The substantive examination shall be conducted by a Patent Examiner as referred to in Article 1 item 5.*
- (2) *A Patent Examiner should hold the position of a functional official and shall be appointed and dismissed by the Minister based on certain conditions.*
- (3) *Upon a Patent examiner as referred to in paragraph (2) shall be accorded functional rank and allowances in addition to other rights in accordance with the prevailing regulations.*

Article 60

- (1) *Where the Patent Examiner reports that an invention for which a patent has been requested evidently contains vagaries or other significant deficiencies, the Patent Office shall notify in writing of the result of said examination.*
- (2) *The notification of results of an examination must state clearly and specifically state the items considered to be vague or other significant deficiencies together with the reasons and standard or references used in the examination as well as the period for the completion of said deficiencies.*
- (3) *If following notification as referred to in paragraph (1) the patent applicant does not provide any clarification or correct the deficiencies, including making any changes or improvements*

on the application which has been filed within the stipulated period, the Patent Office may reject the patent application.

Part Three

The Granting or Rejection of Patent Applications

Article 61

The Patent Office shall make the decision to approve a patent application and thus grant a patent, or to refuse the application, within the period of 36 (thirty six) months at the latest commencing on the date of receipt of application for substantive examination.

Article 62

- (1) If the results of the examination conducted by the Patent Examiner indicate that the invention for which a patent has been requested does not comply with the provisions of the Article 2, Article 3, Article 5, Article 30 paragraph (1) and paragraph (2), Article 39, and Article 60, or is included among unpatentable inventions as referred to in Article 7, the Patent Office shall reject said patent application and shall notify the patent applicant in writing.*
- (2) Where a patent application is filed by a patent consultant, a copy of the notice as referred to in paragraph (1) shall also be sent to the inventor or the person who has a right to said invention.
- (3) The notification letter containing the rejection of a patent application must clearly state the reasons and considerations which constitute the basis for the rejection.

Article 63

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Article 64

- (1) If the report on the examination carried out by a Patent Examiner with respect to an invention for which a patent has been requested concludes that said invention complies with Article 2, Article 3, Article 5 and other provisions of this Law, the Patent Office shall officially grant a Patent Certificate for the invention concerned to the patent applicant or, where the patent application was filed by a proxy, a copy of said Patent Certificate shall also be given to the inventor or to the person who has a right to the invention.
- (2) The granted patent shall be recorded in the General Register of Patents and announced in the Official Patent Gazette.
- (3) The Patent Office may provide copies of the patent document to members of the public requiring copies upon payment of a fee for copying the documents, the amount of which shall be stipulated by the Minister.

Article 65

- (1) A Patent Certificate shall be proof of the grant of a patent by the Patent Office and shall be recorded in the General Register of Patents.
- (2) A letter containing the rejection of a patent application shall be recorded in the Patent Official Book which records the patent application concerned.
- (3) The granting of Patent Certificates and the rejection of patent applications shall be announced by the Patent Office in the same manner as the announcement of patent applications.

Article 66

A patent shall be valid on the date it is granted and shall be valid retroactively from the date of receipt of the patent application.

Article 67

- (1) Further provisions regarding the granting of Patent Certificates, including the form and contents thereof, shall be regulated by Government Regulation.

- (2) Other provisions regarding recording and requests for copies of patent documents shall be regulated by the Minister.

Part Four

Appeal Petitions

Article 68

- (1) An appeal petition may be filed with respect to the rejection of a patent application for reasons and considerations regarding matters which are substantive in nature as referred to in Article 62 paragraph (1).
- (2) An appeal petition shall be filed in writing by the patent applicant or his patent consultant to the Patent Appeal Commission with a copy delivered to the Patent Office.
- (3) The Patent Appeal Commission is a special agency permanently presided over by a chairman who also serves as a member and shall be part of the department headed by the Minister.
- (4) There shall be an odd number of members of the Patent Appeal Commission at a minimum of three persons consisting of several experts in the fields required and senior patent examiners who did not carry out a substantive examination of the patent application concerned.
- (5) The chairman and the members of the Patent Appeal Commission shall be appointed and dismissed by the Minister.

Article 69

- (1) An appeal petition shall be filed describing in detail the objections to the rejection of the patent application, stating the reasons therefor.

- (2) The reasons as referred to in paragraph (1) must not constitute new reasons or explanations or evidence or constitute corrections or improvements to the rejected patent application.

Article 70

- (1) An appeal petition must be filed no later than 3 (three) months from the date of the notification of rejection of the patent application.
- (2) If said period for an appeal petition has elapsed without an appeal petition, the rejection of the patent application shall be deemed to have been accepted by the patent applicant.
- (3) Where the rejection of a patent application has been deemed to have been accepted as referred to in paragraph (2), the Patent Office shall record this fact in the Official Patent Book.

Article 71

- (1) *A petition for patent appeal shall begin to be examined by the Patent Appeal Commission within 3 (three) months at the latest commencing from the date of filing of said petition.*
- (2) A decision of the Patent Appeal Commission shall be final.
- (3) Where the Patent Appeal Commission approves an appeal petition, the Patent Office shall grant a Patent Certificate as regulated under this Act.
- (4) If the Patent Appeal Commission rejects an appeal petition, the Patent Office shall immediately give notification of said rejection.

Article 72

The organisational structure and the work methods of the Patent Appeal Commission and the procedure for appeal petitions and examinations as well as settlements shall be further regulated by Government Regulation.

CHAPTER V : TRANSFER OF A PATENT

Part One

Transfer of Ownership

Article 73

- (1) A patent or the ownership of a patent may be transferred in whole or in part by:
 - a. inheritance;
 - b. donation;
 - c. testament;
 - d. agreement, provided that such agreement must be made in the form of a notarial deed;
 - e. other reasons recognised by law.
- (2) The transfer of a patent as referred to in paragraph (1) items a, b and c must be accompanied by patent documents together with other rights pertaining to the patent.
- (3) All forms of patent transfer as referred to in paragraph (1) must be registered with the Patent Office and recorded in the General Register of Patent upon payment of a fee, the amount of which shall be stipulated by the Minister.
- (4) The execution of a transfer which is not in accordance with the provisions of this article shall be invalid and have no force and effect.
- (5) The requirements and procedures for the registration and recording of patent transfers shall be further regulated by the Minister.

Article 74

- (1) Except for inheritance and in cases of an assignment or transfer made together with part or all of his business, the rights as the

first inventor may not be assigned or transferred to another person.

- (2) An assignment or transfer of right as the first inventor must be registered at the Patent Office which in turn shall record it in the General Register of Patents.
- (3) The Patent Office shall announce the assignment or transfer of the rights as referred to in paragraph (2) in the Official Patent Gazette.

Article 75

The transfer of ownership of a patent shall not nullify the right of the inventor to have his name or other identity included in the patent concerned.

Part Two

Licensing

Article 76

- (1) A Patent Holder shall be entitled to grant a license to another person on the basis of a licensing agreement in order to perform acts as referred to in Article 17.
- (2) Unless agreed otherwise, the scope of a license as referred to in paragraph (1) shall cover acts as referred to in Article 17, shall continue for the term of the license granted, and shall be effective for the entire territory of the Republic of Indonesia.

Article 77

Unless agreed otherwise, a Patent Holder shall continue to be able to personally implement the invention or to grant a license to any other third party to perform acts as referred to in Article 17.

Article 78

- (1) A licensing agreement shall be prohibited to contain provisions which may directly or indirectly give rise to effects which damage the Indonesian economy, or to contain restrictions which obstruct the ability of the Indonesian people to master and develop technology in general and in connection with the patented invention in particular.
- (2) Registration and requests for a licensing agreement containing provisions as referred to in paragraph (1) must be rejected by the Patent Office.

Article 79

- (1) A licensing agreement must be registered with the Patent Office and recorded in the General Register of Patents upon a payment of a fee, the amount of which shall be stipulated by the Minister.
- (1a) *Where a licensing agreement is not registered with the Patent Office as referred to in paragraph (1), said licensing agreement shall not have legal effects on a third party.*
- (2) The requirements and procedure for the registration and recording of a licensing agreement shall be further regulated by Government Regulations.

Article 80

Further provisions governing licensing agreements shall be regulated by Government Regulation.

Part Three

Compulsory Licenses

Article 81

A Compulsory License is a license to implement a patent, which is granted by the District Court after having heard the Patent Holder concerned.

Article 82

- (1) Any person, after the expiration of a period of 36 (thirty six) months commencing from the date of issue of a patent, may file an application to the local District Court for a Compulsory License to implement the patent concerned.
- (2) An application for a Compulsory License as referred to in paragraph (1) may only be made on the grounds that the patent concerned is not being implemented in Indonesia by the Patent Holder despite opportunities for commercial implementation which should be pursued.
- (2a) *An application for a Compulsory License may also be made any time after a patent has been granted on the grounds that the patent concerned has been implemented by the Patent Holder or the Licensee in a form and manner which contravene the public interest.*
- (3) With due regard to capabilities and the situation as it develops, the Government may stipulate that during the initial implementation this Law, an application for Compulsory Licenses shall be filed to certain District Courts.

Article 83

- (1) *In addition to the truth of reasons as referred to in Article 82 paragraph (2), a Compulsory License may only be granted if:*
 - a. *the person submitting said request can provide convincing proof that he:*
 - 1) *has the ability to personally implement the patent;*
 - 2) *has his own facilities to readily implement of the patent concerned;*

- 3) *has made efforts in a sufficient period of time to acquire a license from the Patent Holder on the basis of normal terms and conditions but did not succeed.*
 - b. *the District Court is of the opinion that said patent can be implemented in Indonesia on a feasible economic scale and can be of benefit to the majority of the society.*
- (2) The examination of a n application for a Compulsory License shall be carried out by the District Court in a court session, also hearing the expert opinion of the Patent Office and the Patent Holder concerned.
- (3) A Compulsory License shall be granted for a period no longer than the period of patent implementation and shall be further regulated by Government Regulation.

Article 84

If, based on evidence and opinion as referred to in Article 83, the District Court is convinced that the period as referred to in Article 82 is insufficient for the Patent Holder to commercially implement the patent in Indonesia; or within a region as referred to in Article 18 paragraph (2), the District Court may stipulate either to temporarily postpone the court session or to reject the application.

Article 85

- (1) The implementation of a Compulsory License shall be accompanied by payment of royalties by the Compulsory Licensee to the Patent Holder.
- (2) The amount of royalty to be paid and the method of payment shall be stipulated by the District Court granting the Compulsory License.
- (3) Stipulation of the amount of royalties shall take into account common practice in patent licensing or other similar agreements.

Article 86

The decision of the District Court regarding the grant of a Compulsory License shall include the following matters:

- a. *a compulsory license shall be non-exclusive ;*
- b. the reasons for granting of the Compulsory License ;
- c. evidence, including convincing information or explanations which form the basis for the granting of the Compulsory License ;
- d. the period of the Compulsory License ;
- e. the amount of royalties to be paid by the Compulsory Licensee to the Patent Holder and the method of payment therefor ;
- f. conditions on the termination of the Compulsory License and matters which may cause revocation of the Compulsory License;
- g. *the Compulsory License will be solely used to supply the demand in the national market.*
- h. other matters necessary to fairly protect the interest of the parties concerned.

Article 87

- (1) The Compulsory Licensee shall be obligated to register the Compulsory License which he receives at the Patent Office to be recorded in the General Register of Patents.
- (2) A registered Compulsory License shall be immediately announced by the Patent Office in the Official Patent Gazette.
- (3) Registration of a Compulsory License shall be subject to a fee, the amount of which shall be stipulated by the Minister.
- (4) A Compulsory License may only be implemented after registration and payment of the fee as referred to in paragraph (3).
- (5) Implementation of a Compulsory License shall be deemed to be the implementation of a patent.

Article 88

- (1) A Compulsory License may also be applied from time to time by a Patent Holder on the grounds that the implementation of his patent would be impossible without infringing another existing patent.
- (2) An application for a Compulsory License as referred to in paragraph (1) may only be considered if the patent to be implemented genuinely contains elements of new technology, which are clearly more advanced than said existing patent.
- (2a) *Where a request for a Compulsory License is applied on the grounds as referred to in paragraph (1) and (2) :*
 - a. *the Patent Holder shall be entitled to give each other a license to use the other party's patent under reasonable terms.*
 - b. *the implementation of patent by the Compulsory Licensee cannot be transferred unless it is transferred together with the assignment of the other patent.*
- (3) Provisions regarding the filing of application to the District Court, the payment of royalties, the contents of the court decision, registration and recording, as well as the period of cancellation of the Compulsory License regulated by Part Three of this Chapter shall also apply to a Compulsory License as referred to in paragraph (1) and (2), except provisions regarding the period for filing of requests as provided for in Article 82 paragraph (1).

Article 89

- (1) Upon a request of the Patent Holder, the District Court may revoke previously granted Compulsory License if:
 - a. the grounds which formed the basis of the grant of the Compulsory License no longer pertain;
 - b. the recipient of the Compulsory License has evidently not implemented said Compulsory License or has not made any appropriate preparations for immediate implementation of the license;

- c. the recipient of the Compulsory License is no longer complying with other such terms and conditions, including the obligation to pay royalties stipulated in the grant of the Compulsory License.
- (2) Where the District Court decides to cancel a Compulsory License, a copy of the decision must be forwarded to the Patent Office at the latest 14 (fourteen) days after the date of the District Court's decision to be recorded in the General Register of Patents, and announced in the Official Patent Gazette.
- (3) *The Patent Office must give notice of the recording and announcement of the decision of the District Court as referred to in paragraph (2) to the Patent Holder, the Holder of the revoked Compulsory License and to the District Court which decided on said revocation at the latest 14 (fourteen) days after the Patent Office has received a copy of said decision of the District Court.*

Article 90

- (1) A Compulsory License shall expire at the end of the period stipulated in the grant thereof, upon revocation, or where the Compulsory License returns the license he has obtained to the Patent Office prior to the expiry of said period.
- (2) The Patent Office shall record the expiry of a Compulsory License in the General Register of Patents, announce it in the Official Patent Gazette and give notice in writing to the Patent Holder and the District Court which decided to grant the license.

Article 91

The revocation or expiry of a Compulsory License as referred to in Article 89 and Article 90 shall result in the restoration of the rights of the Patent Holder to the patent concerned, commencing on the date of recording in the General Register of Patents.

Article 92

- (1) *A Compulsory License may not be transferred unless said transfer is made concurrently with the transfer of commercial activities or parts of commercial activities using the patent concerned or by inheritance.*
- (2) *A Compulsory License which is transferred by inheritance shall continue to be subject to the requirements of its grant and other provisions, particularly regarding the period of time, and must be reported to the Patent Office to be recorded and registered in the General Register of Patents.*

Article 93

Further provisions regarding Compulsory Licenses shall be regulated by Government Regulation.

CHAPTER VI

REVOCATION OF PATENTS

Part One

Revocation of a Patent by Operation of Law

Article 94

A patent shall be deemed null and void by the Patent Office if the Patent Holder does not fulfil his obligation to pay annual fees within the period of time stipulated by this Act.

Article 95

- (1) The revocation of a patent by operation of law shall be made known to the Patent Holder and the Patent Licensee concerned in writing and shall be effective as of the date of said notice.

- (2) The revocation of a patent for the reasons as referred to in Article 94 shall be recorded in the General Register of Patents and announced in the Patent Official Gazette.

Part Two

Revocation of a Patent at the Request of the Patent Holder

Article 96

- (1) A patent may be revoked in whole or in part by the Patent Office upon a written request of the Patent Holder to the Patent Office.
- (2) A revocation of patent as referred to in paragraph (1) may not be carried out if the person recorded in the General Register of Patents as a licensee for implementation of the patent concerned has not given written consent attached to said request for revocation.
- (3) The decision to revoke a patent shall be known in writing to the Patent Holder and the Patent Licensee concerned as recorded in the General Register of Patents.
- (4) The decision to revoke a patent for reasons as referred to in paragraph (1) shall be recorded in the General Register of Patents and announced in the Official Patent Gazette.
- (5) Revocation of a patent shall be effective as of the date on which the Patent Office issues its decision to cancel.

Part Three

Revocation of a Patent by Virtue of a Claim

Article 97

- (1) *A lawsuit for revocation on of a patent may be granted where:*
 - a. *the patent should not have been granted according to Article 2 and Article 7;*

- b. said patent is the same as another patent that has been granted to another person based on this Law ;*
 - c. the grant of a Compulsory License cannot stop the implementation of a patent in the form and manners which contravene the public interest within the period of 2 (two) years commencing from the date of granting of the Compulsory License concerned or from the date of granting of the first Compulsory License where some Compulsory Licenses have been granted.*
- (2) A lawsuit for revocation on the grounds as referred to in paragraph (1) letter a may be filed by a third party against the Patent Holder to the District Court of Central Jakarta
 - (3) A lawsuit for revocation on the grounds as referred to in paragraph (1) letter b may be filed by the Patent Holder or the Patent Licensee to the District Court of Central Jakarta requesting revocation of the other patent which is the same to his.
 - (4) A lawsuit for the revocation on the grounds as referred to in paragraph (1) letter c may be filed by the Public Prosecutor against the Patent Holder or the Compulsory Licensee to the District Court of Central Jakarta.

Article 98

If a claim for revocation of a patent as referred to in Article 97 shall be confined to one or several claims or parts of claims, cancellation shall be granted only with respect to matters for which revocation is sought.

Article 99

- (1) A copy of the claim and decision of the District Court of Central Jakarta on the revocation of a patent must be immediately forwarded by the Clerk of the District Court of Central Jakarta to the Patent Office.
- (2) The Patent Office shall record the claim and the decision on revocation in the General Register of Patents and announce them in the Official Patent Gazette.

Part Four

Consequences of Patent Revocation

Article 100

Revocation of a patent shall nullify all legal consequences connected with the patent and other rights derived from said patent.

Article 101

Unless determined otherwise by a decision of the District Court of Central Jakarta, the revocation of a patent in whole or in part shall be effective as of the date of said revocation decision.

Article 102

- (1) *The Licensee of a patent revoked on the grounds as referred to in Article 97 paragraph (1) letter b shall continue to be entitled to implement his license until the expiry date stipulated in the licensing agreement.*
- (2) *A Licensee as referred to in paragraph (1) shall no longer be required to continue to pay royalties which he would otherwise be required to pay to the Patent Holder whose patent was revoked, but to pay royalties for the remaining of his licensing period to the right Patent Holder.*
- (3) *Where a Patent Holder has received in advance a lump sum payment of royalties from the Licensee, said Patent Holder shall be obligated to refund the amount of royalties proportionate to the remaining period of the utilisation of the license to the legitimate Patent Holder.*

Article 103

- (1) A license of a patent declared to be revoked for reasons as referred to in Article 97 paragraph (1) item b, but acquired in good faith before the filing of the claim for revocation of the

patent concerned, shall continue to be effective with respect to the other patent.

- (2) A license as referred to in paragraph (1) shall continue to be effective provided that said Licensee shall thereafter continue to be obligated to pay royalties to the Holder of patent that was not revoked in the same amount as previously agreed with the Holder of the revoked patent.

CHAPTER VII

USE OF PATENT BY THE GOVERNMENT

Article 104

- (1) If the Government is of the opinion that a patent in Indonesia is very important to the conduct of the State Defence and security, the Government may itself use the patent concerned.
- (2) The decision to itself use a patent shall be regulated by Presidential Decision after hearing the considerations of the Minister and the Minister responsible for the field of State defence and security.

Article 105

- (1) The provisions of Article 104 shall also apply to inventions for which patents have been requested but which have not been announced as referred to in Article 52.
- (2) Where the Government does not or does not yet intend to itself use the patent as referred to in paragraph (1), the use of a similar patent may only be undertaken with Government approval.

Article 106

- (1) Where the Government intends to itself use a patent that is important to the conduct of the State defence and security, the

Government shall notify the Patent Holder in writing of this fact setting forth:

- a. the name and number of the patent;
 - b. reasons;
 - c. the period of use;
 - d. other matters regarded as significant.
- (2) The use of a patent by the Government shall be carried out with the provision of reasonable compensation to the Patent Holder.

Article 107

- (1) A decision of the Government to itself use a patent shall be final.
- (2) Where the Patent Holder does not agree with the amount of compensation stipulated by the Government, objections may be filed to the District Court of Central Jakarta.
- (3) Objections as referred to in paragraph (2) shall be filed as a civil claim.
- (4) The process of examining a claim as referred to in paragraph (3) shall not stop the use of the patent by the Government.

Article 108

Further implementation of the provisions contained in this Chapter shall be regulated by Government Regulation.

CHAPTER VIII

SIMPLE PATENTS

Article 109

Except for matters that are specifically regulated for Simple Patents, all other provisions regarding patents as regulated in this Act shall also apply to Simple Patents.

Article 110

- (1) A Simple Patent shall only be granted for one claim.
- (2) Upon an application, a substantive examination of a Simple Patent shall be conducted directly.
- (3) *In conducting a substantive examination the Patent Office shall only examine the novelty requirement as referred to in Article 6 paragraph (2).*

Article 111

- (1) A Simple Patent Certificate shall be granted by the Patent Office for a Simple Patent.
- (2) A Simple Patent granted by the Patent Office as referred to in paragraph (1) shall be recorded in the General Register of Patents.
- (3) The refusal of an application for a Simple Patent may not be appealed to the Patent Appeal Commission.

Article 112

- (1) The period of a Simple Patent as referred to in Article 10 may not be extended.
- (2) *A Simple Patent shall not be applied for a Compulsory License.*

Article 113

Further provisions regarding Simple Patents shall be regulated by the Minister.

CHAPTER IX

FEES

Article 114

- (1) *A fee, the amount of which shall be stipulated by a Ministerial Decree, must be paid for each filing of patent application,*

application of substantive examination, Prior User Certificates, extracts from the General Register of Patents and copies of Patent Certificates, copies of patent documents, the recording of patent transfers, registration of Licensing Agreements, the registration of Compulsory Licenses and other matters stipulated in this Act.

- (2) Further provisions regarding the requirements, periods and methods of payment of said fees shall be regulated by a Ministerial Decree.

Article 115

The first payment of the annual fees must be made no later than one year from the date of the grant of a patent or the recording of a license and payments for subsequent years during the effectiveness of the patent or license must be made at the latest on the same date as the grant of the patent or the recording of the license concerned.

Article 116

- (1) *If within 3 (three) consecutive years a Patent Holder does not pay annual fees as stipulated in Article 19 and Article 115, the patent shall be deemed to have been void commencing from the date constituting the time limit for payment of said third year.*
- (2) *If obligation to make payment of said annual fees is not met in the eighteenth and subsequent years, the patent shall be deemed to have expired on the time limit for the annual fee payment obligation of the year concerned.*
- (3) The expiry of the duration of a patent for reasons as referred to in paragraph (1) shall be recorded in the General Register of Patents and announced in the Official Patent Gazette.

Article 117

- (1) Except for matters as referred to in Article 116 paragraph (3), the payment of annual fees later than the time stipulated in

Article 115 shall be subject to an additional fee of 20 (twenty) percent for each year.

- (2) The late payment of annual fees as referred to in paragraph (1) shall be made known by the Patent Office to the Patent Holder within 7 (seven) days after the stipulated time limit has passed.
- (3) Failure to receive the notice as referred to in paragraph (2) by the person concerned shall not detract from the applicability of the provisions as referred to in paragraph (1).

CHAPTER X

PATENT ADMINISTRATION

Article 118

- (1) The Patent Office shall conduct the administration of patents as regulated by this Law.
- (2) The conduct of administration as referred to in paragraph (1) shall be carried out with due regard for the authority of other agencies as regulated by this Act.

Article 119

The Patent Office shall conduct patent information services and documentation by the establishment of a national patent documentation system and information network capable of providing information to the public regarding patented technology as widely as possible.

Article 120

In implementing the administration of patents, the Patent Office shall receive guidance from and shall be responsible to the Minister.

CHAPTER XI

RIGHTS TO BRING LAWSUIT

Article 121

- (1) If a patent is granted to a person other than the person entitled to said patent based on Article 11, 12 and 13, the person so entitled to the patent may bring a lawsuit to the District Court of Central Jakarta requesting the surrender to him of the patent concerned and the rights which pertain to said patent in whole or in part or in joint ownership.
- (1a) *The right to bring a lawsuit as referred to paragraph (1) shall be retroactive from the date of filing of patent application.*
- (2) A copy of the decision on the lawsuit as referred to in paragraph (1) shall be forwarded immediately by the Clerk of the District Court of Central Jakarta to the Patent Office to thereafter be recorded in the General Register of Patents and announced in the Official Patent Gazette.

Article 122

- (1) The Patent Holder or Licensee shall be entitled to bring a lawsuit for damages through the local District Court from any person who deliberately and without rights performed acts as referred to in Article 17 against his rights.
- (1a) *The District Court may reject the lawsuit for damages including damages for the loss of profit which might be gained, if the defendant is able to prove that he was unaware or has sound reasons on his unawareness that he has infringed another's patent protected in Indonesia.*
- (2) A action for damages filed in respect of acts as referred to in Article 97 paragraph (1) letter b shall only be accepted if the product is proven to have been made by using said patented invention.
- (3) *The decision of the District Court on the lawsuit as referred to in paragraph (1), (1a) and (2) shall be forwarded immediately by the Clerk of the relevant District Court to the Patent Office to thereafter be recorded in the General Register of Patents and announced in the Official Patent Gazette.*

Article 123

- (1) In order to prevent greater losses to the parties whose rights have been infringed, a Judge may order the infringer of said patent to cease the acts as referred to in Article 17 while the lawsuit is being examined by the District Court.
- (2) If a lawsuit has been filed for the surrender of goods produced by a patent infringement or for the value of such goods, a Judge may order that the surrender shall be carried out only after the decision of the court has become final and binding and after the claimant has paid compensation to good faith of the goods.

Article 123A

- (1) *In the trial of an infringement case on a patented process, the burden of proof that the product was not produced by using a patented process shall lie on the defendant if:*
 - a. *the product which was made through the patented process constitutes a new one;*
 - b. *there is a possibility that the product has resulted from the patented process ; and*
 - c. *it is contrary to the facts that sufficient effort has been made for the purpose, a Patent Holder is not able to determine which process he has used to make the product suspected to have resulted from the infringement.*
- (2) *For the purpose of proof in an infringement case as referred to in paragraph (1) a Judge shall be authorised to:*
 - a. *order the Patent Holder to deliver in advance a copy of certificate of the patent concerned, and prima facie evidence supporting his assumption about the infringement on his patent ; and*
 - b. *order the party who is assumed to have committed an infringement to prove that the product did not result from the use of the patented process.*
- (3) *In the trial of a patent infringement case as referred to in paragraphs (1) and (2), a Judge shall consider the interest of*

the party assumed to have committed the infringement, to get a protection on the secrecy of the process he described for the purpose of proof in the court session.

Article 124

The right to bring a lawsuit as regulated in this Chapter shall not detract from the right of the State to conduct the criminal prosecution of patent offences.

Article 125

- (1) An appeal decision of the District Court may be lodged at the High Court and cassation at the Supreme Court.
- (2) A decision on appeal and a decision in cassation as referred to in paragraph (1) must be immediately forwarded by the Clerk of the District Court to the Patent Office to thereafter be recorded in the General Register of Patents and announced in the Official Patent Gazette.

Article 126

Any person who deliberately and without rights infringes the rights of a Patent Holder by committing any of the acts as referred to in Article 17 shall be sentenced to imprisonment of at most 7 (seven) years and a fine of at most Rp. 100,000,000 (one hundred million Rupiah).

Article 127

Any person who deliberately and without rights violates the rights of a Holder of Simple Patent by committing any of the acts as referred to in Article 17 shall be sentenced to imprisonment of at most 5 (five) years and a fine of at most Rp. 50,000,000 (fifty million Rupiah).

Article 128

Any person who deliberately fails to fulfil the obligations as referred to in Article 27 paragraph (3), Article 46 and Article 52 shall be sentenced to imprisonment of at most 5 (five) years.

Article 128.A

Where a patent infringement is established, a Judge may order that the products resulted from the patent infringement shall be confiscated by the State to thereafter be destroyed.

Article 129

The criminal offences as referred to in this Chapter shall be felonies.

CHAPTER XIII

INVESTIGATION

Article 130

- (1) In addition to investigating officers at the State Police of the Republic of Indonesia, certain civil servants from the department whose scope of duties and responsibilities include the guidance over patents shall be granted special authority as investigators as referred to in Act No.8 of 1981 on Criminal Proceedings, to conduct an investigation of criminal offences in the field of patents.
- (2) *Investigator as referred to in paragraph (1) shall be authorised to:*
 - a. *conduct examination of the truth of reports or information relating to criminal offences in the field of patents ;*
 - b. *conduct examination of persons or legal entities suspected of committing criminal offences in the field of patents ;*
 - c. *collect information and evidence from persons or legal entities in connection with incidents of criminal offences in the field of patents;*
 - d. *conduct examination of the books, records and other documents relating to criminal offences in the field of patents;*

- e. *inspect locations on which evidence, books, records, and other documents to be found, as well as to confiscate materials and goods resulting from infringements which can used as evidence in the criminal trials in the field of patents;*
 - f. *request expert assistance in the scope of carrying out the duties of investigation of criminal offences in the field of patents;*
- (3) *An investigator as referred to in paragraph (1) shall inform the investigating officers at the State Police of the Republic of Indonesia about the initiating and the result of an investigation.*
- (4) *An investigator as referred to in paragraph (1) shall forward the results of an investigation to the Public Prosecutor through the investigating officers at the State Police of the Republic of Indonesia in view of Act No. 8 of 1981 on Criminal Proceedings.*

CHAPTER XIV

TRANSITIONAL PROVISIONS

Article 131

- (1) Within one year commencing on the effective date of this Act, those persons who have filed patent applications on the basis of the Ministerial Decree of 1953 within 10 (ten) years prior to the effective date of this Act may file patent applications based on the provisions of this Act.
- (2) If a patent application that has been registered and complies with the provisions as referred to in paragraph (1) is not refiled within one year commencing on the effective date of this Act, said patent application shall be deemed to have expired.
- (3) The registration of patent applications based on the announcement as referred to in paragraph (1) which were filed

- more than 10 (ten) years before the effective date of this Act are declared to have lapsed.
- (4) The provisions of this Act shall apply to patent applications as referred to in paragraph (1) and where a patent is granted, the term of patent protection thereof shall be calculated from the date of receipt of the patent application based on said Ministerial Decree.

CHAPTER XV

OTHER PROVISIONS

Article 132

The establishment of agencies that function to provide considerations on strategic policies in patent matters shall be carried out by the Government in accordance with need and developments.

CHAPTER XVI

CONCLUDING PROVISIONS

Article 133

All existing regulations regarding patents are declared to no longer be in effect as of the date of promulgation of this Act.

Article II

- (1) Commencing from the date of effect of this Act, any Patents and Simple Patents which have been granted based on Act No. 6 of 1989 concerning Patents shall be valid for a period of 20

- (twenty) years from the date of filing of the patent application, and 10 (ten) years from the date of grant of the simple patent.
- (2) With regard to any patent and simple patent applications which have been filed based on Act No.6 of 1989 concerning Patents and have not been decided by the Patent Office, if the patent is granted, the period of protection shall be granted for 20 (twenty) years from the date of filing of the patent application, and 10 (ten) years from the date of grant of the simple patent.
- (3) Implementation of the adjustment for the period of 20 (twenty) years for a patent as referred to in paragraph (1) shall be made at the time of payment of annual fees of the patent concerned in the form and methods stipulated by the Minister.

Article III

This Act shall take effect on the date of its promulgation.

In order that every person may know of it, the promulgation of this Act is ordered by placement in the State Official Gazette of the Republic of Indonesia.

Ratified in Jakarta
On November 1 1989
PRESIDENT OF THE REPUBLIC
OF INDONESIA

S O E H A R T O

Promulgated in Jakarta
On November 1 1989
MINISTER / STATE SECRETARY
OF THE REPUBLIC OF INDONESIA
MOERDIONO

STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 30

ELUCIDATION
OF
LAW OF THE REPUBLIC OF INDONESIA NUMBER 13 OF 1997
REGARDING
THE AMENDMENT OF LAW NUMBER 6 OF 1989
REGARDING
PATENTS

GENERAL

The decree of People's Consultative Assembly of the Republic of Indonesia No. II/MPR/1993 regarding the Guidelines of State Policy stipulates, among others, that the world's development that brings opportunities capable of supporting and increasing the growth of national development should be employed to the most. In line with the direction of the Guidelines of State Policy, therefore, all global developments, changes, and inclinations that might presumably influence the National Stability and achievement of national objectives need to be carefully observed in order to be able to take the anticipating steps.

One of the significant and closely observed developments during the last decade, which remains to be the inclination in the future, is the ever growing flow of globalization in social life, economy, culture and in other fields of life. In the field of trade, the development of, in particular, information technology and transportation has rapidly driven activities in this sector and has even merged the world into a single common market. Having considered such facts and inclination, it is then quite reasonable when there is an urge toward regulating for a more appropriate legal protection. Moreover, there is a number of countries which rely their economic and trading activities more on products resulting from human intellectuals, such as researches which result in inventions in the field of technology.

The General Agreement on Tariff and Trade (GATT) as a multilateral agreement on trade basically aimed to create a free trade

and equal treatment as well as to help create economic growth and progress in order to achieve human prosperity.

In the framework of the Agreement, in April 1994 in Marakesh, Morocco, a package of trade negotiation deals has been agreed, and it became the most comprehensive agreement GATT has ever achieved. The negotiation which had begun in 1986 in Punta del Este, Uruguay, and known as the Uruguay Round contains, among others, the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS).

The TRIPS Agreement established norms and standards of protection for human intellectuals and laid the international agreement on Intellectual Property Rights as its foundation. In addition, the Agreement also regulates strict implementing rules of legal enforcement in the field of Intellectual Property Rights.

As a signatory to the Uruguay Round Agreement, Indonesia has ratified the agreement package with Law No. 7 of 1994 regarding the Ratification of the Agreement Establishing the World Trade Organization.

In line with the policy, to support national development activities, particularly after considering the various changes and development, Indonesia, which had adopted a national Patent Law since 1989, views that it is necessary to make perfection on the Law concerned.

In addition to the perfection of some provisions considered as providing inadequate legal protection on inventors, it is also considered as necessary to make adjustment to conform to the TRIPS Agreement. The goal is to eliminate various barriers, in particular, to facilitate efforts that promote economic growth as well as national and international trade.

As a consequence of having ratified the Uruguay Round, it is considered as necessary to make changes and improvements on the Patents Law. Such changes are basically directed to adjust the law to the *Paris Convention for the Protection of Industrial Property* of 1883 as amended a couple of times, and to perfect some inadequate

provisions which do not reflect both the current need and international practices. To include in the changes is the adjustment to accommodate the TRIPS Agreement.

With such background and considerations, therefore, in addition to changes concerning technical matters, the general area and course of amendment on Law No. 6 of 1989 concerning Patents covers, among others:

1. Perfection

a. Requirements to establish invention novelty

Different from the previous Law which provided that an invention is not deemed novel if it has been announced, this Law provides that the novelty of an invention is determined upon an evaluation whether on the date of receipt of patent application, the patent does not constitute part of an earlier invention or an invention which has existed.

b. Protection period

Besides for the purpose of adjusting with the TRIPS Agreement, the extension of protection period of patent is directed to encourage activities of researches that result in invention.

c. Affirmation of the rights of a Patent Holder to prohibit importation

The changes are made to adjust with the TRIPS Agreement, which asserts that a patent also covers the right to prohibit or give consent to any other person to import his patented product. This amendment is affirmed in the changes of Article 21.

d. Extended scope of grounds for submitting Appeal application

In addition to the refusal decision of a patent application on the grounds that the substantive requirement is not fulfilled, this Law also enables an appeal to be submitted upon the refusal of a patent application on the grounds stated in Article 39 and

Article 60, or on the grounds that it constitutes invention which is precluded under Article 7.

2. Addition

a. Importation of product protected by patent

Importation of a product or its equivalence which is protected by a Process Patent may still be conducted in order to increase the society's welfare and is not considered as infringement of patent, provided such product has not been produced in Indonesia. The addition of this provision is also meant to adjust with the TRIPS Agreement, and to conform to the provision of Article 5 quater of the Paris Convention.

b. Reversed burden of proof

In addition to making adjustment to conform to the TRIPS Agreement, this provision is necessary particularly for facilitating the Court in deciding infringement of Process Patent, which is basically difficult to be proven.

3. Deletion

a. Article 7 letter b

The deletion of Article 7 letter b of Law No. 6 of 1989 concerning the exception for the granting of patent on food and beverages which do not constitute basic needs of human beings and or animals. The deletion is done to encourage research activities that result in invention and to conform to the TRIPS Agreement which, among others, emphasizes that patents protection may be filed on inventions pertaining to process and or product of food and beverages, including products in the form of materials made through a chemical process for the purpose of making food and beverages for human or animal consumption.

b. Article 7 letter c

The deletion of Article 7 letter c of Law No. 6 of 1989 concerning new varieties of plants and animals or breeding processes and the results thereof. Originally this paragraph was meant to meet the need of society over plants and animals of sound quality in an easy and inexpensive manner. The deletion is in pursuant to the TRIPS Agreement, and to encourage inventions of plants and animals, so that upon such inventions patents may be applied for.

c. Legal body in the definition of inventor

The deletion of "legal body" in the definition of inventor is meant to perfect the definition of inventor, for, by nature, only human beings can do activities of research which result in inventions. Whereas a legal corporate body is only able to acquire the right or as a Patent Holder.

ARTICLE BY ARTICLE

Figure 1

The amendment on figure 3 is basically an effort to perfect the definition that is to affirm the definition that an inventor means a person, not a legal corporate body.

Meanwhile, the change on figure 5 is meant to provide a broader foundation for patent examination to be done by the Patent Office which, based on an international agreement, is agreed to carry out patent examination. Under the International Patents Co-operation Treaty an international patent application is capable to be filed through an International Bureau run by a United Nation, special agency which is responsible to administer the various international agreements concerning Intellectual Property Rights. This means, the examination of a

patent application is not only conducted by an official appointed by the Minister, but it is also possible to be conducted by a patent Examiner from a Patent Office abroad.

Adopting this formulation, thus, in the framework of simultaneous patent applications filed at one time in a number of countries, the Patents Office may seek help under the international agreement aforesaid to carry out examination of the pertaining patent application.

Furthermore, see also the elucidation of the previous Article 1.

Figure 2

According to the previous Article 3, the determination of novelty of an invention is basically relied on the requirement that the invention has not been announced, either in writing or orally. Such provision contained weaknesses. This means that even if an invention has not been announced, it is still possible that such invention is not considered as novel that is when there has been a similar invention in existence which has been invented earlier, or if the latter invention constitutes part of the former invention.

"Former invention" means any invention and any kind of information related to the invention that have existed prior to the filing of the patent application or prior to the filing date of the patent application.

Based on that consideration, therefore, the formulation is replaced with the more appropriate principle by adopting a positive approach. With the amendment of Article 3 here, thus the novelty characteristic is determined on examination that on the time an application is applied for, such invention does not constitute part of an existing invention or part of an earlier invention. This means that a Patent Examiner has to use the existing invention as a comparison. Such comparison, among others, is in the form of invention documents clarified in

writing or orally, or by employing other manners that enable an expert to use the invention according to the clarification. In line with the principle, any patent application document that has been endorsed to the Patent Office, including any international patent application applied in Indonesia, are used as comparison document.

Figure 3

The addition of paragraph (2) is meant to complete provision regarding the condition on which an invention is deemed to have been announced. The purpose is to affirm that the announcement of an invention by a person that is done in a manner in breach of obligation to maintain the secrecy of the pertinent invention is not deemed to have been announced, if such announcement is done within a period of 12 (twelve) months prior to the filing of the patent application.

Furthermore, see also the elucidation of the previous Article 4.

Figure 4

The amendment is meant to provide more clarification concerning the scope of Simple Patent protection which covers both product and process, and to define the novelty requirement applicable to invention which might qualify a protection under Simple Patent. In the provision of the previous Article 6 the scope of protection was applicable to invention in the form of product, being a product which has economic values because it possesses of practical values. Such invention is usually in the form of an equipment that is commonly used in daily life, such as meatball maker machine, coconut shredder, coffee shell cracker, cob-corn remover, and rice-stalk remover. Meanwhile, Simple Patent for process is granted to, for instance, a process of food processing.

With the restriction that the novelty requirement on such invention is applicable only within the territory of Indonesia, it

is hoped that patent applications by Indonesian inventors for simple inventions will increase. As to the phrase "simple invention done in Indonesia" it covers any information concerning inventions that may be collected in Indonesia.

Furthermore, see also the elucidation of the previous Article 6.

Figure 5

The exception as provided for in Article 7 letter b and letter c was originally meant to protect the public interests. For food and beverages, including plant and animal varieties necessary for the food supply, constitute the main issue for the realization of society welfare.

The deletion of the two provisions is done upon considerations that it is necessary to meet the need of food that is considered as important by the people and that it is necessary to encourage research and development activities that lead to technological inventions capable of producing food material as much as possible in term of kinds, quantity, and quality. This is becoming more important for it is the research and development activities themselves that actually result in the required technology.

With the existence of protection in the patent system, therefore, a better climate for the activities that result in such inventions will be created. With the amendment, thus the fields upon which patents were not capable of being granted are now open to patent application. This amendment is at the same time done to conform to the TRIPS Agreement.

Furthermore, see also the elucidation of the previous Article 7.

Figure 6

The changes concerning the determination of protection period of patent from 14 (fourteen) years into 20 (twenty) years

and the possibility to extend it for 2 (two) years are meant to conform to a certain degree of protection, which is considered sufficient and in compliance with the standards prescribed by the TRIPS Agreement.

The extension of the protection period of patent may actually even stimulate and encourage researchers and people in general to do researches that result in inventions. Such research activities usually take energy, time and cost of considerable economic value. In such cases it is then appropriate if the period of patent protection is also referred to consideration to give sufficient time to return the cost spent. With such considerations, therefore, a longer period of protection will provide them with an opportunity to enjoy economic benefit more sufficiently from his invention.

Furthermore, see also the elucidation of the previous Article 9 paragraph (2).

Figure 7

The extension of the protection period of patent upon Simple Patent from previously 5 (five) years into 10 (ten) years is basically meant to optimize the protection upon the kinds of invention mostly invented by Indonesian inventors. This is not intended to restrain the public from immediate use of such inventions on the date they become public domain. Such extension is stipulated within a normal time frame by putting into consideration the interests of Indonesian inventors in order to stimulate them to invent more inventions, particularly the simple ones.

Figure 8

The main amendment in this Article is the insertion of a new element that is the right to prohibit importation. Because of the addition of this new element, the wording of the sentence in this Article is also rewritten.

As of the addition of a new provision being paragraph (2), it is meant to limit the applicability onto product that is directly resulted from the use of the Process Patent 11. This is necessary because technology in the field of processing has a huge capability to develop, and that way it is also meant as a measure to reduce the possibility of a right abuse, which may harm the economy in general.

This amendment is done to conform to the TRIPS Agreement.

Meanwhile, the deletion of the phrase "to use his invention in a commercial manner" is meant to avoid a formulation which duplicate the formulation of Article 5 Law No. 6 of 1989, that is for an invention to be able to applied in the industry.

As of the amendment of the phrase "through the giving of consent to another person", it is meant to affirm the existence of a norm of prohibition upon a patent.

Furthermore, see also the elucidation of the previous Article 17.

Figure 9

The addition of new provisions in paragraph (2), paragraph (3) and paragraph (4) is necessary to accommodate the economic rationale of patent use. For not all kinds of patented invention can be profitable in economics sense if the market scale of the product concern is not balanced with the investment value. Some branches of industry face this problem, such as pharmaceutical industry. In this branch of industry the feasibility often covers a market of regional scale, such as the South East Asia region. For that reason a decision is given upon an objective evaluation.

If a patent is not used in Indonesia, the Patent Holder has to submit an application furnished with reasons and evidence given by the authorized Government offices. For instance, in the field of medicine or pharmaceuticals, such evidence is given

by the Ministry of Health. While in the field of electronics, it is given by Ministry of Industry and Trade. If the invention related to technology for the purpose of natural resources exploration and exploitation, the information is given by the Ministry of Mining and Energy.

Meanwhile, further provision concerning the exclusion requirement that will be regulated by a Government Regulation is expected to consider efforts in support of an effective technology transfer and capable of increasing the country's devisa.

Figure 10

The amendment of Article 21 is meant to conform to the provision of the TRIPS Agreement already accommodated through the amendment of Article 17.

Nevertheless, the amendment is done after considering the need for a national development. In this sense there are two steps to consider:

Firstly, making use of the possibility allowed under Article 5 quater of Paris Convention. Under this provision the right of a Patent Holder of a process to stop import activities of a product which is produced using the patent without his consent is limited only to products which are directly and solely produced from the use of the pertinent patent.

Secondly, giving a leeway and a restriction at the same time for the possibility that a product has been imported, which was made possible under the provision of Article 17 Law Number 6 of 1989 concerning Patents.

The old Article 21 was formulated upon a consideration to keep a balance between the right and the interest, as well as the need to realize the welfare of people in general. The decision was of a very strategic nature, particularly because there were national interests at the background that is to promote and develop national industries. The assertion that an importation

was not considered as infringement of patent was basically applied only to certain product protected by patents. Whereas the amendment done is basically directed to maintain the protection to certain industry and national interests in general. The formulation of the new provision basically admits the right of a Patent Holder to prohibit another person who without his consent imports the product of his patent. However, such right may only be exercised if upon the invention in the form of process that is used to make the imported product has been granted a patent, and protected under this Law as well as has been used to make product in Indonesia. With this regulation, thus, the importation of a product or its resemblance which is protected under Process Patent may still be done in order to increase the society's welfare and not considered as patent infringement, provided such product has not been made in Indonesia.

Figure 11

The deletion of Article 22 is based on practical considerations that is to avoid contravene the provision of Article 66. To replace, particularly to strengthen the provision of Article 66, the perfection is done on the provision regarding claim for damages. Lawfully, the provision of Article 22 possessed a neutral meaning. However, in practice the provision had a potential of creating problems. This means that although it is quite true that there is no patent protection before the granting of a patent, however, in practice the provision could injure the interest of a person that filed a patent application. To a person who had bad intent, such a provision provided a loophole to use the invention during the period in which a patent had not been granted. The society was free to use it. With this amendment such use can be avoided.

Figure 12

The provision of Article 33 paragraph (2) basically regulates the determination of the filing date of a patent application. Such provision should have stated merely the obligation to fulfill the minimum requirement and not the maximum requirement that covers the entire administrative requirements.

From the point of view of implementation, the non-fulfillment of requirement as prescribed by Article 29 does not cause the delay of the filing date of patent application. The deficiency will only cause a patent application under the right of priority not to be acknowledged. In other words, the priority date of the patent application is not acknowledged. The filing date of a patent application is solely determined by the fulfillment of requirement as stipulated in Article 30. This means that a non-fulfillment of the provision in Article 31 cannot be used as a reason to delay the filing date of a patent application. For the time frame of search and examination in every country is not necessarily the same.

Figure 13

This change is meant as perfection. The purpose is to avoid a misunderstanding that frequently happens in practice because of the vagueness of the words "not to broaden the scope of protection". This amendment is done by replacing the wordings with "not to broaden the scope of invention". Meanwhile, the words "add new matters" are meant to add a subject matter that was not stated in the patent application previously filed.

Figure 14

This change is also meant as perfection and to give more clarification.

Furthermore, see also the elucidation of the previous Article 40.

Figure 15

The provision of Article 42 is deleted as the consequence of changes in the provision concerning the time period of patent protection which is stipulated for 20 (twenty) years.

With the changes, therefore, the provision concerning the extension of the protection period of patent is no longer needed.

Figure 16

As in the case of the deletion of Article 42, the deletion of provision in Article 43 is also as a consequence of changes in the protection period of patent which does not include the extension of protection period of patent any more.

Figure 17

See the elucidation of Article 15 and Article 16.

Figure 18

The changes of Article 47 paragraph (1) is basically meant to clarify matters which become the requirement for the announcement of a patent application. In the original provision, the requirement in Article 1 is considered as excessive. The provision in the Article 1 is not absolutely applicable. The elucidation for the deletion of Article 31 as a reference provision in this Article is also applicable to the elucidation of Article 55 paragraph (2). Meanwhile the amendment concerning the time to conduct the announcement of patent application is meant to adjust to the period of announcement as provided by the Patent Cooperation Treaty. This amendment also gives an advantage to Indonesian inventors who intend to

file their patent application abroad. For the novelty character of the invention remains preserved.

The actual announcement is done immediately after the eighteenth month computed from the date of receipt of a patent application. "Priority right" means the right of an inventor (who is entitled to the invention) to file a patent application for the same invention in any other country which are member countries to the Paris Convention within a certain period of time (in the case of patent it is 12 (twelve) months as from the first filing).

This administration is to refer to Article 4 letter C figure 4 of the Paris Convention.

Thus, a patent application with a priority right is a patent application which is filed at the Patent Office (Indonesia) with a claim that the filing of such patent can be regarded to have been filed on the same date as the other applications of the same invention in other countries of the Paris Convention.

Figure 19

The amendment is done by deleting the provisions concerning the number of patent application and adding two important elements that must be stated in the announcement. The number of patent application is deleted as Article 24 clearly states that one application may only be filed for one invention. Meanwhile the stating of invention classification along with the drawing, other than to conform to the international administration in the framework of patent cooperation, is also to ease in finding the exact classification for the patent concern. For people who want to know or study certain kind of technology, they would be very much helped in searching the materials needed. Classification can lead to getting references related to the kind of technology needed.

Classification means technical grouping of the kinds of technology which is divided into 8 (eight) major fields which are symbolized in capital letters from A, B, C, D, E, F, G, to H.

Each field of technology is divided into classes, subclasses, main groups, and subgroups.

Thus, by stating the complete classification of an invention, it will be easier and faster for a person to get exact and detailed information or reference related to the field of technology of the invention of which a patent application is filed or has been granted. This classification is in accordance with International Patent Classification (IPC) which is prepared and published by World Intellectual Property Organization (WIPO).

As of "drawings", it means a technical drawing of an invention concerning product or production equipment of a process drawn in the form of diagram, and, in electronics field, in the form of series. This technical drawing is necessary to clarify matters disclosed in the description of invention.

Furthermore, see also the elucidation of the previous Article 49.

Figure 20

The phrase "however, it shall not be earlier than the date of expiry of announcement as referred to in Article 48" means that a person is entitled to apply a request for substantive examination before the announcement period elapses as referred to in Article 48. However, the Patent Office will only proceed the application after the announcement period elapses.

Figure 21

The change in this Article is particularly done by inserting the element of "Patent examiner at other Patents Offices". This change enables an application for substantive examination to be conducted in pursuant to the patent administration in the framework of international patent cooperation

Furthermore, see also the elucidation of the previous Article 58.

Figure 22

The amendment of Article 59 paragraph (1) is basically related to changes done in the provision of Article 1 figure 5. Meanwhile, the changes in paragraph (2) and paragraph (3) is meant to clarify the status of a Patent Examiner working at the Patent Office on appointment by the Minister who, administratively, is given position of a functional officer. With this amendment the difference of their status from the other Patent Examiners becomes apparent, including the differences regarding their rights.

Furthermore, see also the elucidation of the previous Article 59 paragraph (3).

Figure 23

The amendment is done on the provision of Article 60 paragraph 2 by deleting the sentence regarding the obligation of Patent Examiners to address "views and advice to a person who files patent application, including the possibility of changes and amendment which needs to be done." Based on experiences, this provision tends to have non-educative impact. With this amendment, if there is obscurity or other deficiencies that are considered important, it is enough for the Patents Office to notify the person who files patent application to amend or complete it.

Furthermore, see also the elucidation of the previous Article 60 paragraph (1) and Paragraph (3).

Figure 24

Other than to get closer to international administration in the framework of patent cooperation, the extension of period in

which the Patent Office to give decision upon a patent application in this Article is meant to give a more reasonable time to officials at the Patent Office to do the substantive examination more carefully. The extension from 24 (twenty four) months into 36 (thirty six) months at least will reduce the burden and time pressure in order to get a more objective result of examination.

Figure 25

This change is meant as a perfection. Before the amendment, Law No. 6 Year 1989 concerning Patents asserted that the decision refusing a patent application could be taken based only on the ground of non-fulfillment of provisions in Article 2, Article 3, and Article 5. Meanwhile, a refusal can also be based on non-fulfillment of Article 30 paragraph (1) and paragraph (2), Article 39 and Article 60 or because of violating provision concerning preclusion as regulated in Article 7. With this perfection, the legal grounds for refusal of a patent application become clearer and firm.

Figure 26

The deletion of Article 63 is based on a consideration that the content of the provision has been accommodated in Article 7 and emphasized in the amendment of provision in Article 62.

Figure 27

The amendment of paragraph (1) is meant to allow the Patent Appeal Commission to perfect the completion of their task. In the previous provision, it was the time frame for the completion of appeal examination which was stipulated. The new provision does not only stipulate the initiation of the examination it also considers the need to allow the Patent

Appeal Commission to work in order to finish their job more carefully and precisely.

Even though this Article does not stipulate the time limit to complete a patent appeal, nevertheless, the completion has to consider the principle of court proceeding that is to be carried out in a fast, simple and affordable manner.

Furthermore, see also the elucidation of the previous Article 71 paragraph (2) up to paragraph (4).

Figure 28

The changes in paragraph (1) and paragraph (2) are meant to clarify provisions related to licensing agreement. Such agreement basically has to be recorded, not registered at the Patents Office. For from administrative point of view, the decision as whether or not a licensing agreement can be registered may only be taken on the basis of registration mechanism governing requirements to be fulfilled. Meanwhile, the obligation prescribed in this Article is to record licensing agreement at the Patent Office. Once a licensing agreement is recorded, then the Patent Office can evaluate whether such licensing agreement contains matters that may harm the national economy as asserted in Article 78.

As of the addition of provision being paragraph (1a) here, it is meant to affirm as about the legal consequences of license agreement against the third party when such license is not recorded at the Patent Office.

Figure 29

The addition of a new provision in paragraph (2a) is important for the provision of Article 82 only provides an opportunity to submit a request for a Compulsory License after a period of 36 (thirty six) months elapses. With this perfection, besides not limiting the period, it also clarifies the ground for submitting a request for Compulsory Patent. It is meant to

secure the principle that there should be a balance between the right and the obligation of Patent Holder.

Through this mechanism the negative features attached to exclusivity of patent may be reduced.

The issue of "the interests of the community" arises in the case, among others, when the supply of a product is limited solely for the purpose of market control or price fixing, while actually it is possible to produce sufficiently. Even though this Article does not stipulate the time limit to finish an appeal application, however, the completion still have to consider the principle of court proceeding that is fast, simple and affordable by the society.

Furthermore, see also the elucidation of the previous Article 82 paragraph (1), paragraph (2) and paragraph (3).

Figure 30

The addition of the new provision is meant to complete the evidence, that in addition to possessing capability and facilities, a person who applies for a Compulsory License must have done efforts to acquire the license from the Patent Holder, yet did not succeed. That way, the judge will have sufficient consideration in the evidence presented to subsequently decide whether or not a Compulsory License may be granted.

"Sufficient time" means an adequate time frame that allows an applicant to acquire an ordinary license. Meanwhile the words "has taken the steps" means, among others, seeking the address of the Patent Holder, contacting him to convey his intention to acquire the license, and negotiating the terms of a license agreement.

Furthermore, see also the elucidation of the previous Article 83.

Figure 31

The change is meant to adjust with the amendment made on provision of Article 18 paragraph (2).

Furthermore, see also the elucidation of the previous Article 84.

Figure 32

The addition is meant to affirm the principle that a Compulsory License has to be of non-exclusive nature and the utilization is for the sale of domestic market. The latter means no-exportation.

With such non-exclusive nature it means that the Patent Holder can also give licenses to any other third party. Meanwhile, non-exclusive means that a Compulsory License can be requested or applied without any limitation. The granting of a Compulsory License does not limit the possibility for the granting of the same Compulsory License to any other party.

Figure 33

The addition of provision in paragraph (2a) is meant to clarify that it is possible for Patent Holders to give a cross-license to each other in order to prevent them from suing each other. They can do that on reasonable terms.

Meanwhile, "reasonable terms" means, among others, it does not contravene public interests, in affordable price and in support of effective transfer of technology.

If such patent is licensed, the License Holder may not assign the patent unless such assignment is done along with the other existing patent.

Furthermore, see also the elucidation of the previous Article 88.

Figure 34

The addition of the word "decision" in Article 89 paragraph (3) is meant to clarify the actual meaning of the provision. This means that the matter to be notified by the Patent Office is the decision that has been recorded and announced in the Official Patent Gazette.

Furthermore, see also the elucidation of the previous Article 89.

Figure 35

The changes in paragraph (1) are meant to accommodate the existing reality in the business world. The problem was that the previous provision that limited only to inheritance was considered less securing the achievement of the goal for which a Compulsory Licensing was granted. Based on that ground, therefore, the provision in paragraph (1) is broadened. This means that as far as the grounds for requesting a Compulsory License remains exist, then the possible difficulties faced by the Compulsory License Holder in implementing the patent concerned is also necessary to consider. This matter happens frequently in economic activities.

However, to prevent a misconduct, such assignment is accompanied with requirements that the business or part of the business using a patent acquired through a Compulsory Licensing has to be assigned as well.

Furthermore, see also the elucidation of the previous Article 92.

Figure 36

The changes of provision in Article 94 are meant to reorganize the regulation for a more effective patent revocation. For the only thing which is obviously noticeable by the Patent Office - and therefore he may declare as void -, is in the event

related to payment of annual fee. Furthermore, the requirement provision which was previously prescribed in paragraph (1) letter a is moved to Article 97 with amendment. The obligation to use a patent is implemented in accordance with Article 18.

Figure 37

The addition of provision in paragraph (i) letter c is actually a replacement-with amendment of the substance in Article 94 paragraph (1) letter a of Law No. 6 of 1989 concerning Patents.

The consideration is because by principle a patent which is not used within a period of 36 (thirty six) months as from the date of the granting is open to any Compulsory License application. Thus, the two-year limitation in this provision is considered as adequate. By principle, this step does not change the basic thought regarding a balance between the rights and obligations upon which the Patent Law has always been founded.

Meanwhile, the addition of paragraph (4) is meant to clarify the party entitled to bring a lawsuit in the event that the granting of a Compulsory License is in fact not able to stop the continuation of patent utilization that injures the interests of the society. A civil action that is related to public interests is brought by the Public Prosecutor on behalf of the State. This is in accordance with provision of Article 27 paragraph (2) of Law No. 5 of 1991 concerning Public Prosecutor of the Republic of Indonesia.

Meanwhile, the phrase in fact is not capable to stop the continuing implementation of patent in the form and in such manner which harms the interests of the society" means that although a Compulsory Licensing is granted, the granting is not followed by the implementation of the patent, with the result that the product which is very much needed by the society is not fulfilled and the purpose of the granting of the license

agreement is not achieved. For instance, medicinal product, with the result that the price of the medicine remains expensive, because the number being produced remains a small quantity. Apart from the aforesaid consideration, in practice the Patent Office is not able to monitor whether or not a patent is used within a certain period of time.

Therefore, a revocation of patent on the ground that a patent is not exploited within a certain period of time is done through a mechanism of bringing up a lawsuit to the Court

Furthermore, see also the elucidation of the previous Article 97.

Figure 38

The amendment of paragraph (1) is meant to clarify that the circumstances prescribed in the new provision here is only applicable in the event that the pertaining patent remains exist. This means that on the time it is revoked there is actually another person who is entitled to the pertaining patent. These circumstances are possible to happen when there are two Patent Holders, and one of them by law, subsequently declared as more entitled to it. In line with the clarity provided in paragraph (1), therefore, the balance of payment is given to the more entitled Patent Holder. Likewise, in the event that the Patent Holder has received the full royalty in lump sum, the new provision is provided for a settlement with the Patent Holder who is actually entitled to it.

Figure 39

In examining the novelty of Simple Patents, as references, the Patent Office only uses simple inventions implemented in Indonesia. The novelty element to examine also covers any technological advances contained in the invention of which a Simple Patent application is filed.

Such examination has to be differentiated from the examination carried out to find out the inventive steps, which is absolutely required in the case of ordinary patents.

Furthermore, see the elucidation of the previous Article 11C.

Figure 40

The amendment of paragraph (2) is basically meant to abolish the provision concerning no annual-fee for Simple Patent. With the abolition, as a consequence, payment of annual fee is also applicable to Simple Patent.

Figure 41

The amendment of paragraph (1) is done by deleting the sentence "extension of period of patent". This is the consequence of the abolition of provision concerning extension of the protection period as previously regulated in Article 42 of Law No. 6 of 1989 concerning Patents.

Furthermore, see the elucidation of the previous Article 114.

Figure 42

The amendment in paragraph (1) is meant to adjust with the terminology used in Article 94 that is null and void. Meanwhile, the amendment of provision of paragraph (2) is meant to adjust with the changes of period of patent into 20 (twenty) years.

Figure 43

The addition of this provision is meant to provide assurance that the Patent Holder can bring a lawsuit against any unlawful use of invention that happens during the process of patent application.

Figure 44

The addition of the new provision is meant to affirm the foundation and direction for the District Court in deciding to grant damages or otherwise reject it on the ground of evidence presented in the Court. If the defendant was not aware or has a strong reason not to be aware that he has been infringing a patent protected in Indonesia, the judge is authorized to reject such action for damages. This provision is, in a restricted sense, meant to provide protection to a person who absolutely without intention has committed an action that constitutes a patent infringement.

Figure 45

This provision is added to comply with the TRIPS Agreement. The Agreement stipulates the obligation concerning reversed burden of proof in cases of infringement of process patent.

The reversed burden of proof is applied because of the difficulties in handling cases of process patent infringement. However, to keep the normal balance of interests between the parties, the judge remains authorized to order the patent owner to submit in advance the copy of patent certificate for the process concerned along with the prima facie evidence in support of his claim. Apart from that, the judge is also obliged to consider the interest of the defendant to get protection upon the secrecy of the process which he has explained in the Court.

Paragraph (1)

The terms "patented process" or "patent for process" basically refers to the same terminology, that is Process Patent

"New product" means a product that is absolutely new and no product similar to it has existed.

Paragraph (2)
Self-explanatory

Paragraph (3)

The protection upon secrecy is very important because the nature of any process, in general, is very easy to be manipulated or amended by any person who possesses general knowledge in the field of engineering or technology.

Figure 46

The authority of the judge to give decision on confiscating goods being the results of a patent infringement to be destroyed is basically meant to prevent the circulation of such goods in the society. This is important to prevent further loss on the Patent Holder. In line with this provision, the forfeiture and disposal is done against any goods being the results of patent infringement which is in possession of the violator as well as those which are under his authority.

Figure 47

This amendment is made to clarify the authority of Civil Servant Investigators and the procedures on the implementation of the task as well as their inter-relation with Investigators of the State Police of the Republic of Indonesia and the Public Prosecutor.

A clear provision regarding investigation is important for investigative apparatus in carrying out their tasks. Therefore, it is necessary to clarify that even though Civil Servant Investigators within the Ministry of which the task and responsibility includes management of patents are vested with a

special authority to be an investigator, this does not eliminate the function of Investigators of the State Police of the Republic of Indonesia as the Main Investigator. In carrying out their tasks, Civil Servant Investigators are under the coordination and supervision of Investigators of the State Police of the Republic of Indonesia. Therefore, during the process of investigation a Civil Servant Investigator needs to consult with Investigators of the State Police of the Republic of Indonesia. It is in this stage of investigation that Investigators of the State Police of the Republic of Indonesia give technical directions concerning the format and the content of Deed of Investigation and at the same time check the truth of the content of the Deed. After the investigation is over, the result of investigation shall be submitted by the Civil Servant Investigator to the Investigator of the State Police of the Republic of Indonesia, who in turns shall proceed it immediately to the Public Prosecutor. This is in accordance with the principle laid down in Article 6, Article 7 and Article 107 of Law No 8 of 1981 concerning Criminal Proceedings.

Bearing in mind this principle, thus the word "through" in paragraph (4) is not necessarily understood as stating that Investigator of the State Police of the Republic of Indonesia may or shall undertake reinvestigation. Because technical assistance on investigation as well as on the reporting of result of the investigation, basically, has been given during a period in which Civil Servant Investigator carrying his investigation. As a result, the principle of fast and effective procedures as prescribed by Criminal Proceedings Law can be implemented.

Article II

This provision is meant to avoid different periods of patent protection in existence as a result of the stipulation of period of patent protection for 20 (twenty) years.

The adjustment of period of patent protection will be implemented on the payment of annual fee for the following year after the year of promulgation of this Law.

Article III

Self- explanatory

SUPPLEMENTARY STATE GAZETTE OF THE REPUBLIC OF
INDONESIA
NUMBER 3680

COMPILATION

Law Number 6 of 1989 Concerning Patents

And

Their Implementing Regulations

Directorate General of
Copyrights, Patents and Trademarks
Ministry of Justice
Jakarta

Introduction

The main objective of the publication by the Directorate General of Copyrights, Patents and Trademarks Department of Justice of this English Translation of Law Number 6 of 1989 concerning Patents and Law Number 6 of 1982 concerning Copyrights as Amended by Law Number 7 of 1987 is to assist foreign users.

Many people have contributed to the compilation of this book.

I would like to acknowledge, with the sincere gratitude and appreciation the effort and contribution made by :

- Mrs. Winita E Kusnandar, Official/Sworn Translator;
- Mr. Supjan Suradimadja, Director of copyrights;
- Mr. Mohammad Mochtar, Head of Sub Directorate of Substantive Examination, Directorate of Patents;
- Mr. Arry Ardanta Sigit, Head of Patent Application and Classification, Directorate of Patents,

who have translated the Legislation from Indonesian into English.

Despite of possible shortcomings, I hope this book will be useful in serving the need particularly of the foreign users.

Tangerang, February 1993

Director General
Copyrights, Patents and Trademarks

A handwritten signature in black ink, appearing to read 'Nico Kansil', with a large circular flourish on the right side.

Nico Kansil

NIP. 090002557

PREAMBLE

LAW OF THE REPUBLIC OF INDONESIA
NUMBER 6 OF 1989 CONCERNING PATENTS

BY THE MERCY OF GOD ALMIGHTY
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Considering :

- (a) that the state of the Republic of Indonesia is a legal state based on Pancasila (Five Principles of State Ideology) and the 1945 Constitution with the objective to achieve a just and prosperous society, equitably oriented both materially and spiritually;
- (b) that in the framework of the implementation of national development in general, and economic development in particular, technology has a very important role in the improvement and advancement of industry;
- (c) that in view of the importance of the role of technology in the improvement and advancement of industry, it is necessary to create a more favourable climate for technological discoveries and the means to provide the results of said activities with legal protection;
- (d) that in order to create the above mentioned climate and means for legal protection, it is deemed necessary to stipulate regulations concerning patent in the form of a law.

In view of :

1. Article 5 paragraph (1), Article 20 paragraph (1), and Article 33 paragraphs (1) and (2), of the 1945 Constitution;
2. Article 16 of Law No. 5 of 1984 regarding Industry (State Gazette of 1984 Number 22, Supplement to the State Gazette No. 3274);

With the approval of

THE PEOPLE'S HOUSE OF REPRESENTATIVES
OF THE REPUBLIC OF INDONESIA

D E C I D E S

To enact : The Patent Law.

CHAPTER I
GENERAL PROVISIONS

Article 1

Interpretation Under this Law :

- (1) A patent shall mean a special right which is given by the State to an inventor for his invention in the field of technology for a limited period, in which he shall himself exploit the invention or give his approval to any other person to exploit the same.
- (2) An invention shall mean an activity for the solution of a certain problem in a field of technology, and may be a process or a product, or an improvement or development of a process or a product.
- (3) An inventor shall mean a person or several persons jointly carrying out activities which produce an invention.

- (4) A patent holder shall mean the inventor as owner of the patent or any person or legal entity having received such right from the owner of the patent or other persons or legal entity having received further right from such person aforesaid, registered in the Patent Rolls.
- (5) A patent examiner shall mean an official who for his expertise is appointed by the Minister and assigned to examine patent application.
- (6) Minister shall mean the Minister whose scope of duty and responsibility include the administration of patents.
- (7) Patent Office shall mean an organizational unit within the sphere of a government department having authority and carrying out duties in the field of patents.

CHAPTER II

SCOPE OF PATENTS

Part One

Invention For Which Patent May Be Granted

Article 2

Patentable Inventions; Inventive Step

- (1) A patent may be granted for a new invention which involves an inventive step and which can be applied in industry.

- (2) An invention involves an inventive step if said invention would not have been obvious to a person with the usual expertise in the technical field.
- (3) The judgement that an invention would not have been obvious should be made by assessing the expertise existing at the time a patent application is submitted, or in existence at the time a patent application is submitted or in existence at the time first application is submitted in case such application submitted is claiming a right of priority.

Article 3
Novelty.

An invention is not considered as new, if at the time the patent application patent is submitted :

- (a) said invention has been announced in Indonesia or outside Indonesia in a publication in a manner which enables an expert to use said invention; or
- (b) said invention has been announced in Indonesia through an oral explanation, or through a demonstration as to its use or in any other manner, so that it enables an expert to use said invention.

Article 4

Acts Not Destroying Novelty.

An invention is considered to be unannounced, if within a maximum period of 6 (six) months preceding the date of submission of a patent application :

- (a) the invention has been shown in an international exhibition in Indonesia or abroad, which is official, or acknowledged to be official, or in a national exhibition in Indonesia, which is official or acknowledged to be official:
- (b) the invention has been used in Indonesia by the inventor within the framework of experimentation for research and development purposes.

Article 5

Industrial Application.

An invention can be applied in industry if the invention may be produced or may be used in various types of industry.

Article 6

Simple Invention.

Any invention in the form of a new object, tool or product which does not possess the qualities of an invention, however, possesses practical utility because of its shape, configuration, construction or composition may obtain legal protection in the form of a simple patent.

/Part Two ---

Part Two
Invention Not Granted Patent or Patent Grant Deferred

Article 7
Unpatentable Inventions.

Patent shall not be granted for :

- (a) invention of processes or products whose publication and use or implementation contravene the prevailing rules and regulation public order or morality;
- (b) inventions of processes or food and beverage products including products in the form of materials which have been produced through a chemical process for the purpose of producing consummable food or beverages for human beings and/or animals;
- (c) inventions of a new kinds or variety of plants or animals, or any process whatsoever which may be used for the production of plants or animals as well as plant or animal products;
- (d) inventions of a method of examination, treatment, medical care and surgery which may be applied on human beings and animals, however, does not apply to products used in or connected with such methods;
- (e) invention of theories and methods in the field of science and mathematics.

Article 8

Deferrment of Patent Protection:

- (1) A Presidential Decree may stipulate that the granting of a patent for certain inventions in the form of a process or product may be deferred for a maximum period of 5 (five) years provided that said Decision shall not be effect with respect to :
 - (a) inventions which at the date of the Decision have obtained or are granted patents;
 - (b) inventions which at the date of issuance of the Decision may apply for a patent claiming a right of priority.
- (2) Following the expiration of the deferred period as referred to in paragraph (1) a patent application shall be announced immediately, and a substantive examination shall commence, after the expiration of the announcement period as regulated under this law.

Part Three

Term of a Patent

Article 9

Term

- (1) A patent shall be granted for a period of fourteen years, as from date of the filing of the patent application.

- (2) The date of effect and date of expiry of the patent period shall be recorded in the Patent Rolls and announced in the Patent Official Gazette.

Article 10

Term of a Simple Patent.

A simple patent shall be granted for a period of five years as effect from the date of granting of the Simple Patent Certificate.

Part Four

Right To A Patent

Article 11

Subject of Patent.

- (1) Those entitled to a patent shall be the inventor or anyone subsequently receiving the right of such inventor.
- (2) If an invention has been jointly produced by several persons, then those subsequently receiving the right of such persons shall be jointly entitled to such invention.

Article 12

The Person Filing the Patent Application Deemed To Be Inventor.

- (1) Unless proved otherwise, the party deemed as the inventor shall be those who file a patent application for the first time.
- (2) Those who file patent application as referred to in paragraph (1) shall not be granted a patent if the contents of the application contains information copied from the description and/or drawings of an invention made by another person and for which an application has already been filed or for which a patent has already been granted.

Article 13

Invention Made By An Employee.

- (1) Unless otherwise agreed in an employment agreement, those entitled to a patent on an invention which has been produced shall be the employer.
- (2) The provisions as referred to in paragraph (1) shall be also applicable to inventions produced by employees or workers who have used data and facilities available in their employment, despite their employment agreement does not require them to make an invention.

- (3) The inventors referred to in paragraphs (1) and (2) shall be entitled to receive a reasonable compensation with due observance to the economic benefits which can be derived from such invention.
- (4) Compensation as referred to in paragraph (3) may be paid:
 - (a) in a certain amount and in a lump sum; or
 - (b) on a percentage basis; or
 - (c) in a combination of a certain lump sum with a gift or bonus; or
 - (d) in a combination of percentage, with a gift or bonus; which amounts shall be determined by the relevant parties.
- (5) If no agreement is reached concerning the method of calculation and the determination of the amount of compensation, a decision shall be requested from the local Distric Court.
- (6) The provisions referred to in paragraphs (1), (2), and (3) shall not abrogate right of the inventor to have his name stated in the patent certificate.

Article 14

Right Derived From Prior Use.

- (1) Any person using an invention at the time a patent is applied for an identical invention shall remain entitle to use such invention as the first inventor even though

such identical invention is subsequently granted a patent.

- (2) The provisions in paragraph (1) shall also prevail for patent applications filed with priority rights.

Article 15

No Rights Where Patent Has Been Requested.

The provisions referred to in Article 14 shall not be effective if the person implementing such invention uses knowledge from descriptions, drawings, samples or other information of the invention for which patent has been requested.

Article 16

First Inventor Certificate

- (1) A person using an invention as referred to in Article 14 may be acknowledged as the first inventor, if he submits a patent application therefor to the Patent Office after a patent has been granted on the identical invention aforesaid.
- (2) An application for acknowledgement as the first inventor must be accompanied with evidence that such invention has not been made by using descriptions, drawings, samples or other information of the invention, for which patent has been requested.

- (3) Acknowledgement as the first inventor shall be given by the Patent Office in the form of a First Inventor Certificate and a fee must be paid therefor.
- (4) The First Inventor Certificate shall expire at the time patent of the identical invention expires.

Part Five
Rights And Obligations Of Patent Holder

Article 17
Rights

The patent holder shall have exclusive right to exploit commercially his patent individually or by giving his consent to other persons, namely :

- (a) to make, sell, lease, deliver, use, supply for sale or lease or delivery of the products for which patent has been granted;
- (b) to use production processes, which have been granted patent rights for the production of goods and other acts referred to in letter a.

Article 18
Obligation

The Patent Holder shall be obliged to use his patent within the territory of the Republic of Indonesia.

Article 19
Annual Fees

For the management of the validity of a patent and the registration of licences, the Patent Holder or Licence Holder of a patent shall be obliged to pay maintenance fees known as annual fees.

Part Six
Exception Of Implementation And Infringement Of Patent

Article 20
Import Does Not Constitute Implementation

The import of products which have been granted or made with processes which have been granted patent shall not constitute implementation of a patent.

Article 21
Import Does Not Constitute Infringement

The import of products which have been granted patent or their equivalent which are carried out by persons other than the Patent Holder shall not constitute an infringement of the relevant patent except in certain cases, which shall be further regulated by Government Regulations.

/Article 22 ---

Article 22

Acts Not Constitute Infringement

The use of an invention in the form of a product or a process, or the sale, lease, or delivery of the result of the use of such invention which has occurred at the time or prior to the granting of the relevant patent shall not constitute as infringement of such patent.

CHAPTER III

PATENT APPLICATION

Part One

General

Article 23

Application.

A patent shall be granted on the basis of an application.

Article 24

Unity of Invention.

A patent application may be filed for one invention only.

Article 25

Application Fee.

A patent application shall be filed to the Patent Office along with a fee, the amount of which shall be determined by the Minister.

Article 26

Devolution of Title.

- (1) If a patent application is filed by a person other than the inventor, such application must be accompanied with a statement and sufficient evidence that the patent application is entitled to the relevant invention.
- (2) The Patent Office shall be obliged to send a copy of the statement referred to in paragraph (1) to the inventor.
- (3) The inventor may examine the patent application filed by a person other than the inventor as referred to in paragraph (1) and at his own expense may request for a copy of such application.

Article 27

Patent Consultant.

- (1) A patent application may be filed by a Patent Consultant in Indonesia as the attorney, except in certain cases stipulated otherwise under this Law.
- (2) The Patent Consultant referred to in paragraph (1), shall be a consultant registered in the Patent Consultant Register at the Patent Office.
- (3) As from the date of receipt of a power of attorney, the Patent Consultant shall be obliged to safeguard the secrecy of the invention and all documents of the patent application until the date of announcement of the relevant patent application.

- (4) Provisions regarding requirements for registration as a Patent Consultant shall be regulated by a Government Regulation.

Article 28

Application By Non-residents.

- (1) A patent application filed by an inventor or a person entitled to an invention who is not residing or permanently domiciled in the territory of the Republic of Indonesia shall be filed through a patent consultant in Indonesia as the attorney.
- (2) The inventor or the person entitled to an invention, as mentioned in paragraph (1) shall declare and choose his residence or legal domicile in Indonesia for the purpose of such patent application.

Article 29

Application Claiming Priority Rights.

- (1) A patent application which is filed with priority right as regulated by the international convention for patent protection in which the Republic of Indonesia is a party, shall be submitted within a period of twelve months as from the date the first patent application is received by any country which is also a party to such convention.

- (2) With due observance to the provisions of this law concerning requirements which must be fulfilled by a patent application, a patent application with priority right as referred to in paragraph (1) shall be completed with a copy of the first patent request which has been certified as correct by the competent authorities in the relevant country within six months as from the date of such patent application, provided the time limit referred to in paragraph (1) is not exceeded.
- (3) If the provisions, contained in paragraphs (1) and (2) are not fulfilled, the patent application shall not be filed with priority right.

Article 30
Requirements

- (1) A patent application shall be made in writing in the Indonesian language to the Patent Office.
- (2) A patent application shall contain :
- (a) the date, month and year of the application;
 - (b) the full and clear address of the person filing the patent application mentioned in letter a;
 - (c) the full name and nationality of the inventor;
 - (d) if the application is filed by another person as the attorney, such application must contain the full name and address of the relevant attorney;

- (e) a special power of attorney if the application is filed by an attorney;
 - (f) a request for a patent;
 - (g) the title of the invention;
 - (h) claims contained in the invention;
 - (i) a written description of the invention which fully discloses the manner of using the invention;
 - (j) drawings mentioned in the description which are required for the explanation;
 - (k) an abstract of the invention.
- (3) Further provisions for the filing of a patent application spacing shall be regulated by the Minister.

Part Two

Patent Application With Priority Right

Article 31

Requirements for Application Claiming Priority.

- (1) In addition to a copy of the application referred to Article 29 paragraph (2), the Patent Office may request that a patent application filed with priority right shall be supplemented with :
- (a) an official copy of the documents pertaining to the examination of the first patent application overseas.

- (b) an official copy of the patent documents which have been granted with respect to the first patent application made overseas;
 - (c) an official copy of the decision concerning the rejection of the first patent application made overseas in case such application is rejected;
 - (d) an official copy of the decision for the annulment of the relevant patent which has been issued overseas in case such patent has been annulled;
 - (e) other documents which may be required in order to facilitate the evaluation that the invention for which a patent has been requested is a new invention and actually contains an inventive step.
- (2) The submission of the copies of the documents referred to in paragraph (1) may be supplemented with a separate clarification by the patent application.

Article 32

Further Provision

Further provision pertaining to patent applications filed with priority rights shall be regulated by the Government Regulations.

/Part Three ---

Part Three
Receipt of A Patent Application

Article 33
Filing Date

- (1) A patent application is deemed to have been filed on the date of receipt of the patent application by the Patent Office and the fee referred to in article 25 has been paid.
- (2) The date of filing of a patent application shall be the date the Patent Office receives a patent application which fulfills the requirements referred to in article 30. and in the case of a patent application claiming priority right the requirements stipulated in Articles 29 and 31 have been fulfilled.
- (3) The date of filing of a patent application for a patent shall be recorded by the Patent Office.

Article 34
Completion of Requirements

- (1) If in fact the requirements referred to in article 30 are incomplete the Patent Office shall request that the correction of such deficiencies should be made within 3 (three) months as of the date of delivery of a notification therefor by the Patent Office.

{2) Based on reasons acceptable to the Patent Office, the period referred to in paragraph (1) may be extended for a maximum of 3 (three) months upon the request of the patent application.

Article 35

Date of Receipt

In the event of deficiencies as referred to in article 34, the filing date of the patent application shall be the date of receipt of the correction of such deficiencies at the Patent Office.

Article 36

Failure To Correct Deficiencies.

In the event deficiencies are not corrected within the time frame provided in article 34, the Patent Office shall notify the patent applicant in writing that such patent application is deemed to have been withdrawn.

/Article 37 ---

Article 37

Identical Inventions and the same Inventor.

If during the initial examination there are two or more patent applications for the same invention and anyone of such application is filed with priority rights by the same the patent applicant, the Patent Office is entitled to reject such application on the basis that only one application may be filed for one inventor.

Article 38

Identical Applications Filed By Different Persons

- (1) In the event one or more patent applications are filed by different persons for the same invention, only the application which is earlier filed or filed first shall be accepted.
- (2) If the applications referred to in paragraph (1) are filed on the same date, then the Patent Office shall request in writing to the persons filing such applications to discuss and decide which of the applications shall be filed and inform the decision therefor to the Patent Office no later than 6 (six) months as from the date of delivery of such request.

- (3) If a decision or agreement is not reached among those filing such patent applications, or it is not possible to hold negotiations or the result of such negotiations has not been notified to the Patent Office within the time frame stipulated in paragraph (2), then such patent applications shall be rejected and the Patent Office shall announce such matter in writing to the persons filing such patent applications.

Part Four
Amendment of a Patent Application

Article 39
Amendments

- (1) A patent application may be amended provided that such amendment does not extend the scope of protection which has been filed in the original application.
- (2) The amendments of an application referred to in paragraph (1) shall be deemed to have been filed on the same date as the original application.

/Article 40 ---

Article 40
Procedure for Amendment

- (1) The amendments of an application as referred to in article 39 may be filed separately in one or more applications. however, with the provision that the scope of protection requested in each application does not exceed the scope of protection filed in the original application.
- (2) In the event such amendment constitutes a separation of an application referred to in paragraph (1). such application shall be deemed to have been filed on the same date as the filing date of the original application.

Part Five
Withdrawal of Patent Application

Article 41
Withdrawal of Application.

- (1) A patent application may be withdrawn by submitting a written request to the Patent Office.
- (2) Further provisions concerning the withdrawal of a patent application shall be regulated by Government Regulations.

Part Six
Extension of Validity Period

Article 42
Duration of Extension Term.

Upon the request of the Patent Holder, the validity period of a patent may be extended once for a period of two years.

Article 43
Procedure For Extension

- (1) Any application for the extension of the validity period of a patent as referred to in Article 42 must fulfill the following requirements :
 - (a) the application must be submitted in writing no earlier than 12 (twelve) months and at least 6 (six) months before the expiration of the patent period;
 - (b) the Patent Holder shall submit convincing evidence to the Patent Office that :
 - (i) the earning gained from the use of the patent is not sufficient to cover the cost of research and development activities which produced the invention for which such patent has been granted;
 - (ii) the patent has been used continuously in Indonesia and will continue to be used in order to meet the needs of Indonesia or for export purposes.

- (2) The decision of the approval or rejection of an application for the extension of the validity period of a patent shall be notified in writing to the Patent Holder.
- (3) In the event such application is rejected, the reasons therefor shall be elucidated in the notification.

Article 44

Recordation of Decision.

The decision of an approval or rejection of an application for extension of the validity period of a patent shall be recorded in the Patent Rolls and announced in the Patent Official Gazette.

Part Seven

Prohibition To File Patent Application and Obligation To Safeguard Secrecy

Article 45

Prohibition on Employees of Patent Office.

While still bound in active service and until 1 (one) year after retirement or after ceasing to work at the Patent Office for whatever reason, an employee of the Patent Office or any person who, due to his assignment has been working for and on behalf of the Patent Office, shall not be permitted to file a patent application, to obtain a patent or in any other manner obtain a right or hold a right in relation to a patent, unless ownership of a patent is due to inheritance.

Article 46

Secrecy Until Announcement of Application

As of the date of receipt of a patent application, all officials of the Patent Office shall be obliged to keep secret the invention and all documents of the patent application, until the date time the relevant patent is announced.

CHAPTER IV EXAMINATION

Part One

Publication of Patent Applications

Article 47

Announcement

- (1) The Patent Office shall announce patent applications which have fulfilled the requirements of Articles 29, 30 and 31 and applications which have not been withdrawn.
- (2) The announcement shall be made no later than :
 - (a) six months after the date of receipt of the patent application;
 - (b) twelve months after the date of filing of the patent application for the first time, in case of patent applications with priority right.

Article 48

Publication of Announcement.

- (1) An announcement shall prevail for six months and shall be carried out by:
 - (a) placing such announcement on announcement boards exclusively provided for such purpose and which may be easily and clearly seen by the public, and;
 - (b) placing such announcement in the Patent Official Gazette periodically published by the Patent Office.
- (2) The commencement date of the announcement of a patent application shall be registered by the Patent Office in the register of announcements.

Article 49

Details of Publication

An publication shall be made by containing :

- (a) the full name and address of the inventor or the person entitled to the invention and the attorney in the case an application is filed through a patent consultant;
- (b) the patent application number;
- (c) the title of the invention;
- (d) the filing date of the patent application or in the case a patent application is filed with priority rights, the date, number and country in which a patent application has been filed for the first time;
- (e) abstract.

Article 50

Public Inspection of Patent Application.

The Patent Office shall provide a special place for any concerned member of the public to have the opportunity to inspect documents of the relevant patent applications.

Article 51

Public Opinion on Patent Application.

- (1) During the period of announcement, any person after having seen the announcement of a patent application, may submit a written opinion or objections on the relevant patent application together with his reasons.
- (2) In the event of any opinion or objection as referred to in paragraph (1), the Patent Office shall immediately send a copy of the letter containing such opinion or objections to the patent application.
- (3) The patent applicant shall be entitled to submit in writing any denial or explanation regarding such opinion or objections to the Patent Office.
- (4) The Patent Office shall use the opinion or objections, denials or explanation as referred to in paragraph (1) and paragraph (3) as additional information for consideration in the examination level of the relevant patent application.

Article 52

Prohibition of Publication

- (1) With the approval of the Minister, the Patent Office may decide not to publish a patent application if in its opinion such invention and its publication may disrupt or contravene defence and security interests of the State.
- (2) The decision not to publish a patent application as referred to in paragraph (1) shall be notified in writing to the patent applicant by the Patent Office, with a copy to the inventor or the person entitled to the invention if such patent application is filed by its patent consultant.
- (3) The provisions of Articles 48 and 49 shall not apply to any patent applications which are not published.
- (4) Consultations held by the Patent Office with other government agencies, including the giving of information concerning an invention for which a patent has been applied, in respect of which the ultimate decision is not to publish the patent application, shall not be deemed as a violation of the obligation to safeguard the secrecy of the invention and the documents of the relevant patent application.

- (5) The provisions of paragraph (4) shall not diminish the obligation of the relevant Government agencies and their apparatus to safeguard the secrecy of the invention and the documents of the patent application which has been consulted, from any third parties.

Article 53

Examination of Un-announced Applications.

- (1) With respect to a patent application which has not been published, an examination as to whether or not a patent may be granted shall be carried out if:
- (a) a period of 6 (six) months has elapsed from the date of the decision of the Patent Office not to publish nounce the relevant patent application; and
 - (b) such patent application has not been withdrawn.
- (2) The examination of patent application as referred to in paragraph (1) shall be conducted by the Government without imposing any examination fee on the patent applicant.

Article 54

Further Provisions.

Further provisions concerning announcement shall be regulated by the Minister.

Part Two
Examination

Article 55
Request For Examination.

- (1) A request for examination of a patent application shall be submitted in writing to the Patent Office along with the payment of a fee to be determined by the Minister.
- (2) The request as referred to in paragraph (1) shall be for a substantive examination.
- (3) The form and requirements for the request for an examination shall be further regulated by the Minister.

Article 56
Time Frame For Examination Request.

- (1) The application for substantive examination must be submitted no later than 36 (thirty six) months from the date of receipt of a patent application, however, no earlier than the termination of announcement period as referred to in Article 48.
- (2) If a request for examination has not been made after the expiration of the time limit referred to in paragraph (1), or the fee therefor has not been paid, such patent application shall be deemed to have been withdrawn.

- (3) The Patent Office shall notify the patent applicant in writing of the decision of withdrawal of such patent application, with a copy to the inventor or the person entitled to the invention if the patent application is filed by its patent consultant.

Article 57

Exemption For Un-announced Applications.

Without prejudice to all preceding provisions on examination, the provisions of Article 51 shall not apply to patent applications which have not been published.

Article 58

Assistance of Experts.

- (1) For the purpose of conducting substantive examination, Patent Office may request the assistance of an expert and/or utilise the necessary facilities of other Government agencies.
- (2) The use of the assistance of an expert and/or facilities as referred to in paragraph (1) shall be made with due observance to the provisions concerning the obligation to safeguard the secrecy of the invention for which a patent has been applied.

/Article 59 ---

Article 59

Patent Examiner.

- (1) A substantive examination shall be conducted by a Patent Examiner from the Patent Office or any other Government agency qualified as a Patent Examiner.
- (2) A patent examiner is a functional official and appointed by the Minister on the basis of certain conditions.
- (3) A Patent Examiner shall be accorded a functional rank and allowance in addition to other rights in accordance with the prevailing rules and regulations.

Article 60

Examination Procedure.

- (1) In the event a Patent Examiner reports that an invention for which a patent has been applied in fact contains ambiguity or other deficiencies which are considered important, the Patent Office shall notify the results of such examination in writing to the patent applicant.
- (2) The notification of the examination results must state clearly and in detail the matters considered as ambiguous or other deficiencies which are considered important, along with the reasons and references used in the examination, as well as an opinion and suggestions to the patent applicant including the possibility of any necessary changes and improvements to be made, and the time frame to complete the same.

- (3) If following the notification as referred to in paragraph (1) the patent applicant does not provide any clarification or correct the deficiencies, including making any change or improvements on an application which has been filed within the stipulated time frame, the Patent Office may refuse such patent application.

Part Three

Approval or Refusal of Patent Applications

Article 61

Time Period To Conclude Examination.

The Patent Office shall be obliged to decide to approve a patent application and thus grant a patent, or refuse the same, no later than twenty four months as from the date of receipt of an application for substantive examination.

Article 62

Refusal of Application.

- (1) If the result of the examination conducted by the Patent Examiner shows that the invention for which a patent has been applied does not fulfill the provisions of Article 2, Article 3 and Article 5, the Patent Office shall refuse such patent application and notify such matter in writing to the patent applicant.

- (2) In the event the patent application is filed by a Patent Consultant, a copy of the notification as referred to in paragraph (1) shall be given to the inventor or the person entitled to such invention.
- (3) Any notification containing the refusal of a patent application must clearly state the reasons and considerations constituting the basis of such refusal.

Article 63

Other Grounds For Refusal.

In addition to the provisions of Article 62, a patent application must also be refused if the invention and its use contravene the rules and regulations, public order and morality.

Article 64

Grant of Patent.

- (1) If the report on the result of an examination of an invention for which patent has been applied and which has been conducted by a Patent Examiner concludes that such invention complies with Article 2, Article 3, Article 5 and other provisions of this law, the Patent Office shall officially issue a Patent Certificate for the relevant invention to the patent applicant or in the event the patent application is filed by a Patent Consultant, a copy of such

Patent Certificate shall be given to the inventor or such person entitled to such invention.

- (2) The patent which has been granted shall be recorded in the Patent Rolls and announced in the Patent Official Gazette.
- (3) The Patent Office may provide a copy of the patent documents to the members of the public requiring the same upon payment of the fee for such copy, the amount of which shall be determined by the Minister.

Article 65

Recordation of Refusal or Grant.

- (1) A Patent certificate constitutes evidence of the granting of a patent by the Patent Office and shall be recorded in the Patent Rolls.
- (2) A letter containing refusal of a patent application shall be recorded in the Patent Official Register which records the relevant patent application.
- (3) The granting of a Patent Certificate and refusal of a patent application shall be announced by the Patent Office in the same manner as the announcement of a patent application.

/Article 66 ---

Article 66
Validity.

A patent shall be effective as of the date it is granted and shall be valid retroactively as of the date of receipt of the patent application.

Article 67
Further Provisions

- (1) Further provisions concerning the granting of the Patent Certificate, its form and contents shall be regulated by Government Regulations.
- (2) Other provisions concerning the recordation and request for copies of the patent documents shall be regulated by the Minister.

Part Four
Appeal

Article 68
Appeal: Patent Appeal Commission.

- (1) An appeal may be filed against the refusal of a patent application in respect of reasons and basic considerations pertaining to substantive matters as referred to in Article 62 paragraph (1).

- (2) A request for appeal shall be filed in writing by the patent applicant or patent consultant, to the Patent Appeal Commission, with a copy to the Patent Office.
- (3) The Patent Appeal Commission is a special body presided over permanently by a chairman serving concurrently as a member of the Commission and organized within the sphere of a department headed by a Minister.
- (4) The number of the members of the Patent Appeal Commission shall be odd and at least three persons and shall consist of several experts in the necessary field and a senior Patent Examiner who has not conducted substantive examination on the relevant patent application.
- (5) The chairman and members of the Patent Appeal Commission shall be appointed and dismissed by the Minister.

Article 69

Contents of Appeal.

- (1) A request for appeal shall be filed with a detailed description of the objections against the refusal of the patent application and the reasons therefor.
- (2) The reasons as referred to in paragraph (1) must not constitute new reasons, explanations or evidence, nor improvement or completion of the patent application which has been refused.

/Article 70 ---

Article 70
Time Frame For Appeal.

- (1) A request for appeal must be filed no later than 3 (three) months as of the date of notification of refusal of the patent application.
- (2) If the time frame of such appeal request has elapsed without any request for appeal, then the refusal of the patent application shall be deemed to have been accepted by the patent applicant.
- (3) In the event the refusal of patent application is deemed to have been accepted as referred to in paragraph (2), the Patent Office shall record the same in the Patent Official Register.

Article 71
Decision of Appeal.

- (1) The decision of the Patent Appeal Commission on a request for appeal shall be made no later than twelve months as of the date of receipt of such appeal request.
- (2) The decision of the Patent Appeal Commission shall be final.
- (3) In the event the Patent Appeal Commission accepts a request for appeal, the Patent Office shall grant a Patent Certificate as regulated under this law.

- (4) Should the Patent Appeal Commission refuse a request for appeal, the Patent Office shall immediately announce such refusal.

Article 72

Further Provisions.

The organizational structure, work procedures of the Patent Appeal Commission, procedures for application and examination of appeal and its settlement shall be further regulated by Government Regulations.

CHAPTER V

TRANSFER OF A PATENT

Part One

Transfer of Patent Ownership

Article 73

Transfer of Patent Ownership.

- (1) A patent or the ownership of a patent may be transferred in whole or in part due to :
- (a) inheritance.
 - (b) legacy.
 - (c) will.
 - (d) agreement, provided that such agreement has been drawn up in the form of a Notarial Deed.
 - (e) other reasons justified by law.

- (2) The transfer of a patent as referred to in paragraph 1 letters a, b, and c shall be accompanied with patent documents and other rights pertaining to such patent.
- (3) All forms of patent transfer as referred to in paragraph (1) must be registered at the Patent Office and recorded in the Patent Rolls and a fee therefor shall be paid, the amount of which shall be determined by the Minister.
- (4) A transfer which is not made in accordance with the provisions of this article shall not be valid and effective.
- (5) The conditions and procedures for the registration and recordation of a patent transfer shall be further regulated by the Minister.

Article 74

Transfer of Right as First Inventor.

- (1) Except in the event of inheritance and assignment or transfer made together with a part or all of its business, the right as first inventor shall not be assigned or transferred to any other person.
- (2) The assignment or transfer of the right as first inventor must be registered with the Patent Office which shall further record the same in the Patent Rolls.
- (3) The Patent Office shall announce the assignment or transfer of right as referred to in paragraph (2) in the Patent Official Gazette.

Article 75

Identity of Inventor Due To Transfer.

The transfer of the ownership of a patent shall not obliterate the right of the inventor to have his name and any other identity included in the relevant patent.

Part Two

Licence

Article 76

Right of Patent Holder.

- (1) The Patent Holder shall be entitled to give a licence to another person pursuant to a licence agreement for the performance of the acts referred to in Article 17.
- (2) Unless otherwise agreed, the scope of the licence referred to in paragraph (1) shall cover all acts as referred to in Article 17, which shall be effective during the term of the licence, and shall be valid for the whole territory of the Republic of Indonesia.

/Article 77 ---

Article 77
Performance of Acts

Unless otherwise agreed, a Patent Holder may continue to perform by himself or give a licence to any other third parties to perform the acts referred to in Article 17.

Article 78

Prohibited Provisions in Licence Agreements.

- (1) A licence agreement shall not contain provisions which may directly or indirectly be detrimental to the economy of Indonesia, or contain restriction which hamper the capabilities of the Indonesian people to master and develop technology in general and with respect to inventions for which patent has been granted, in particular.
- (2) The registration and request for the recordation of any licence agreement which contains provisions as referred to in paragraph (1) must be refused by the Patent Office.

Article 79
Registration of Licence Agreement.

- (1) A licence agreement shall be registered with the Patent Office and recorded in the Patent Rolls and a fee must be paid, which amount shall be determined by the Minister.

(2) The conditions and procedure for the registration and recordation of a licence agreement shall be further regulated by Government Regulations.

Article 80
Further Provisions

Further provisions concerning licence agreements shall be further regulated by Government Regulations.

Part Three
Compulsory Licence

Article 81
Definition

A Compulsory Licence is a licence to implement a patent which has been granted by the District Court after having heard the relevant Patent Holder.

Article 82
Application for Compulsory Licence

(1) Any person may, after the expiration of thirty six months as from the date a patent has been granted, submit an application for a Compulsory Licence with the District Court to implement the relevant patent.

- (2) The application for a Compulsory Licence as referred to in paragraph (1) may only be submitted on the grounds that the relevant patent is not implemented in Indonesia by the Patent Holder in spite of the opportunity to implement such patent commercially.
- (3) With due observance the capabilities and development of circumstances, the Government may stipulate that during the initial implementation stage of this law, any application for Compulsory Licence shall be submitted to a certain District Court.

Article 83

Approval of Compulsory Licence

- (1) In addition to the truth of the reason referred to in Article 82 paragraph (2), a Compulsory Licence may only be given if:
 - (a) the person submitting such application may show convincing evidence that he:
 - (i) has the capability to fully implement the patent himself;
 - (ii) has his own facilities for the immediate implementation of the patent.
 - (b) the District Court opines that such patent may be implemented in Indonesia on a feasible economic scale and may benefit a majority of the society.

- (2) The examination on the application for Compulsory Licence shall be conducted by the District Court in a court session by hearing the opinion of experts from the Patent Office and the Patent Holder concerned.
- (3) A Compulsory Licence shall be given for a period which does not exceed the period for the implementation of a patent and shall be further regulated by Government Regulations.

Article 84

Deferment or Refusal of Application.

If based on the evidence and opinion referred to in article 83, the District Court is convinced that the time frame referred to in Article 82 is not sufficient for the Patent Holder to implement such patent commercially in Indonesia, the District Court may decide to either adjourn the court session or dismiss the application for Compulsory Licence.

Article 85

Royalty Payments.

- (1) The implementation of a Compulsory Licence shall include payment of royalty by the Compulsory Licence Holder to the Patent Holder.

- (2) The amount of royalty which must be paid and the method of payment shall be determined by the District Court giving the Compulsory Licence.
- (3) The determination of the amount of royalty shall be made by taking into account the normal procedure in patent licence agreements or other similar agreements.

Article 86

Judgement of District Court.

The judgement of the District Court with respect to the issuance of a Compulsory Licence shall contain the following:

- (a) the reasons for issuance of the Compulsory Licence;
- (b) evidence including a convincing statement or explanation to be used as the basis for the issuance of the Compulsory Licence;
- (c) the validity period of the Compulsory Licence;
- (d) the amount of royalty which must be paid by the Compulsory Licence Holder to the Patent Holder and the method of payment therefor;
- (e) conditions for the termination of a Compulsory Licence and matter which may cancel the same;
- (f) other matters necessary to protect the interest of the relevant parties in a fair manner.

Article 87

Registration of Compulsory Licence.

- (1) A Compulsory Licence Holder shall be obligated to register the Compulsory Licence which he has received at the Patent Office and recorded in the Patent Rolls.
- (2) A Compulsory Licence which has been registered shall be immediately announced by the Patent Office in the Patent Official Gazette.
- (3) Registration of a Compulsory Licence shall be subject to a fee, the amount of which shall be determined by the Minister.
- (4) A Compulsory Licence shall be effective after the registration and payment of fees as referred to in paragraph (3).
- (5) The implementation of a Compulsory Licence shall be deemed as the implementation of a patent.

Article 88

Other Reasons For Compulsory Licence

- (1) A Compulsory Licence may at any time be applied by the Patent Holder on the ground that the implementation of his patent cannot be carried out without infringing another existing patent.

- (2) The application for a Compulsory Licence as referred to in paragraph (1) may only be considered if the patent to be implemented actually contains an element of technological reform which in fact is more advanced than the existing patent.
- (3) Provisions pertaining to the filing of an application to the District Court, the royalty payments, court judgement, registration and recordation, as well as the time frame or revocation of a Compulsory Licence as stipulated in Part Three of this Chapter shall also also prevail with respect to an application for Compulsory Licence as referred to in paragraphs (1) and (2), except provisions concerning the time frame for filing an application as provided in Article 82 paragraph (1).

Article 89

Revocation of Compulsory Licence.

- (1) Upon the request of the Patent Holder, the District Court may revoke a Compulsory Licence which has been granted if:
 - (a) the underlying reasons for the granting of a Compulsory Licence no longer exist;
 - (b) the holder of a Compulsory Licence in fact has not implemented such Compulsory Licence or has not made any appropriate preparation for its immediate implementation;

- (c) the holder of a Compulsory Licence no longer complies with other terms and conditions including the obligation to pay royalties which has been determined in the granting of the Compulsory Licence.
- (2) In the event the District Court decides to revoke a Compulsory Licence, then no later than 14 (fourteen) days as of the date of the judgement of the District Court a copy of such judgement must be delivered to the Patent Office for recordation in the Patent Rolls and announcement in the Patent Official Gazette.
- (3) The Patent Office shall be obligated to notify the recordation and announcement of the judgement of the District Court as referred to in paragraph (2) to the Patent Holder, the holder of the Compulsory Licence which has been revoked and the District Court adjudging such revocation no later than 14 (fourteen) days following the receipt of such judgement of the District Court.

Article 90

Expiration of Compulsory Licence.

- (1) A Compulsory Licence shall expire at the end of the period specified in its issuance, or in the event the same is revoked or the Holder of the Compulsory Licence returns the same to the Patent Office before the expiry of such time frame.

- (2) The Patent Office shall record a Compulsory Licence which has expired in the Patent Rolls, announce the same in the Patent Official Gazette and notify in writing the Patent Holder and the District Court which granted such Compulsory Licence.

Article 91

Restoration of Rights of Patent Holder

The revocation or expiration of a Compulsory Licence as referred to in Article 89 and Article 90 shall restore the rights of the Patent Holder on the relevant Patent with effect from the date of recordation in the Patent Rolls.

Article 92

Assignment of Compulsory Licence.

- (1) A Compulsory Licence shall not be assigned except due to inheritance.
- (2) A Compulsory Licence which has been assigned due to inheritance shall remain bound by the terms of its issuance and other provisions particularly with regard to the time frame, and must be notified to the Patent Office for recordation in the Patent Rolls.

/Article 93 ---

Article 93
Further Provisions

Further provisions regarding Compulsory Licence shall be regulated by Government Regulation.

CHAPTER VI
CANCELLATION OF A PATENT

Part One
Patent Cancelled By Law

Article 94
Basis for Cancellation

- (1) A Patent may be declared as cancelled by law by the Patent Office in the event :
 - (a) the patent is not implemented within forty eight months as of the date of granting of such patent.
 - (b) failure to pay annual fees within the time frame as stipulated under this law.
- (2) Patents as referred to in Article 105 paragraph (2) are exempted from the provisions of paragraph (1).

/Article 95 ---

Article 95
Notification of Cancellation

- (1) The cancellation of a patent by law shall be notified in writing by the Patent Office to the Patent Holder and relevant Patent Licence Holder and shall be effective as of the date of the notification.
- (2) The cancellation of a patent due to reasons as referred to in Article 94 paragraph (1) shall be recorded in the Patent Rolls and announced in the Patent Official Gazette.

Part Two
Cancellation Upon Request of Patent Holder

Article 96
Request for Cancellation

- (1) A patent may be cancelled completely or partially by the Patent Office upon the written request of the Patent Holder to the Patent Office.
- (2) The cancellation of a patent as referred to in paragraph (1) cannot be effected, if the person registered in the Patent Rolls as holder of the licence to implement the relevant patent has not provided a written approval attached to such application for the cancellation.

- (3) The decision for the cancellation of a patent shall be notified in writing by the Patent Office to the Patent Holder and to any person recorded in the Patent Rolls as Holder of the relevant Patent Licence.
- (4) The decision of a cancellation of a patent due to reasons as referred to in paragraph (1) shall be recorded in the Patent Rolls and announced in the Patent Official Gazette.
- (5) The cancellation of a patent shall be effective as of the date of the decision of the Patent Office concerning such cancellation.

Part Three

Patent Cancellation Due To Lawsuit

Article 97

Basis for Cancellation

- (1) A lawsuit for the cancellation of a patent may be made in the event :
 - (a) pursuant to the provisions of Article 2 and 7, such patent should not have been granted;
 - (b) the patent is similar with other patents which has been granted to other persons pursuant to this law.
- (2) A lawsuit for cancellation due to reasons as referred to in paragraph (1) letter a, shall be filed by a third party against the Patent Holder to the District Court of Central Jakarta.

- (3) A lawsuit for cancellation due to reasons as referred to in paragraph (1) letter b shall be filed by the Patent Holder or Licence Holder to the District Court of Central Jakarta so that other patents which are similar to its patents shall be cancelled.

Article 98 Partial Cancellation

If a lawsuit for the cancellation of a patent as referred to in Article 97 only concern one or several claims, or a part of the claim only, then cancellation shall be granted for matters for which cancellation has been claimed.

Article 99 Notification of Cancellation

- (1) A copy of the lawsuit and judgement of the District Court of Central Jakarta concerning the cancellation of a patent shall be delivered immediately by the Registrar of the District Court of Central Jakarta to the Patent Office.
- (2) The Patent Office shall record the lawsuit and judgement concerning patent cancellation in the Patent Rolls and announced in the Patent Official Gazette.

Part Four
Effect of Patent Cancellation

Article 100
Effect of Cancellation

The cancellation of a patent shall nullify all legal consequences related with the patent and all other rights originating from such patent.

Article 101
Date of Effect of Cancellation

Unless otherwise determined by a judgement of the District Court of Central Jakarta, the cancellation of a patent in full or partially shall be effective as of the date of judgement of such cancellation.

Article 102
Licence of Cancelled Patent

- (1) The Licence Holder of a patent which has been cancelled by law shall remain entitled to implement his licence until the expiration of the time frame stipulated in the licence agreement.
- (2) The Licence Holder as referred to in paragraph (1) shall not be required to continue paying royalties which he would otherwise be required to pay.

/(3) In ---

- (3) In the event the Patent Holder has received in advance royalty in one lump sum from the Licence Holder, such Patent Holder shall not be obliged to refund an amount of the royalty in proportion to the remaining period of the utilization of the licence.

Article 103

Licences in Good Faith Remain Valid.

- (1) The licence of a patent which has been declared as cancelled due to reasons as referred to in Article 97 paragraph (1) letter b which has been obtained in good faith prior to the lawsuit for the cancellation of the relevant patent, shall remain valid with respect to other patents.
- (2) The licence as referred to in paragraph (1) shall remain valid on the condition that such Licence Holder shall be further required to pay royalty to the Patent Holder of the patent which has not been cancelled, in the same amount as previously agreed with the Patent Holder of the cancelled patent.

CHAPTER VII
IMPLEMENTATION OF PATENT BY THE GOVERNMENT

Article 104

Decision of Government to Implement a Patent.

- (1) Should the Government opine that a patent in Indonesia is very important for the defence and security of the State, the Government may implement the relevant patent itself.
- (2) The decision to implement a patent itself shall be stipulated by a Presidential Decision after hearing the consideration of the Minister and the Minister in-charge of State defence and security.

Article 105

Government Implementation of Unannounced Patent.

- (1) The provisions of Article 104 shall also apply to an invention for which patent has been requested, however, has not been announced as stipulated in Article 52.
- (2) In the event the Government does not or does not yet intend to implement a patent itself as referred to in paragraph (1), the implementation of a similar patent shall only be carried out with the approval of the Government.
- (3) The Patent Holder, as referred to in paragraph (2) shall be exempted from the obligation to pay annual fees until such patent has been implemented.

/Article 106 ---

Article 106

Notification To Patent Holder And Compensation.

- (1) In the event the Government intends to implement a patent itself for the defence and security of the State, the Government shall inform such matter to the Patent Holder in writing by stating:
 - (a) the relevant patent and its title and number;
 - (b) the reasons;
 - (c) the period of implementation;
 - (d) other matters considered important.
- (2) The Government shall pay a reasonable amount of compensation to the Patent Holder for the implementation of the patent.

Article 107

Objection.

- (1) The decision of Government to implement a patent itself shall be final.
- (2) In the event the Patent Holder does not agree with the amount of compensation as determined by the Government, an objection to that effect may be filed to the District of Court of Central Jakarta.
- (3) The objection as referred to in paragraph (2) shall be filed as a civil claim.

- (4) The examination process of the claim as referred to in paragraph (3) shall not stop the implementation of the patent by the Government.

Article 108
Further Provisions

Further implementation of the provisions contained in this Chapter shall be regulated by Government Regulations.

CHAPTER VIII
SIMPLE PATENTS

Article 109
Provisions

Except for matters which have been specially regulated for simple patents, all other provisions regarding patents as regulated under this law shall apply to Simple Patents.

Article 110
Procedure for Grant

- (1) A Simple Patent shall only be granted for one claim.
(2) A substantive examination shall be conducted immediately with respect to an application for a simple patent.

/Article 111 ---

Article 111
Grant or Refusal.

- (1) A Simple Patent Certificate shall be issued by the Patent Office for a Simple Patent.
- (2) A Simple Patent which has been granted by the Patent Office as referred to in paragraph (1) shall be recorded in the Simple Patent Rolls.
- (3) The refusal of an application for a Simple Patent may not be appealed to the Patent Appeal Commission.

Article 112
No Extension and Compulsory Licence

- (1) The period of a Simple Patent as referred to in Article 10 may not be extended.
- (2) An application for a Compulsory Licence may not be made in respect of Simple Patent and no annual fees shall be imposed.

Article 113
Further Provisions

Further provisions concerning Simple Patents shall be regulated by the Minister.

CHAPTER IX
F E E S

Article 114

General

- (1) A fee, the amount of which shall be determined by the Minister must be paid for the filing of each patent application, application for examination, extension of the time frame of a patent, Certificate of First User, excerpt from the Patent Rolls and copies of Patent Certificate, copies of patent documents, recordation of patent transfer, registration of Licence Agreements, registration of Compulsory Licence and other matters stipulated under this law.
- (2) Further provisions regarding the terms, time frame and procedure for payment of such fees shall be regulated by the Minister.

Article 115

Annual Fees.

The first payment of the annual fees must be made no later than one year from the date a patent is granted or registration of a licence and for each subsequent year during the term of the patent or licence, payment shall be made no later than the same date as the granting the patent or registration of the licence concerned.

/Article 116 ---

Article 116

Expiration Due to Non-Payment

- (1) If for three consecutive years the Patent Holder fails to pay annual fees as stipulated in Article 19 and Article 115, the patent shall be deemed to have expired as from the date constituting the time limit for payment of the third year.
- (2) If the non-payment of such annual fees is related with the obligation to pay annual fees for the twelfth year and thereafter, the patent shall be deemed to have expired on the last date for payment of the annual fee for the relevant year. (3) The expiry of the time frame of a patent due to reasons as referred to in paragraph (1) shall be recorded in the Patent Rolls and announced in the Patent Official Gazette.

Article 117

Late Payment of Fees.

- (1) Except in circumstances referred to in Article 116 paragraph (3) delayed payment of annual fees made after the time limit as stipulated in Article 115 shall be subject to an additional fee of twenty five percent per annum.
- (2) The delayed payment of annual fees as referred to in paragraph (1) shall be notified in writing within seven days after the stipulated time limit by the Patent Office to the relevant Patent Holder.

- (3) Non-receipt of the notification as referred to in paragraph (2) by the relevant party shall not detract the validity of the provisions of paragraph (1).

CHAPTER X PATENT ADMINISTRATION

Article 118 Administration.

- (1) The administration of patents as regulated under this law shall be performed by the Patent Office.
- (2) The administration as referred to in paragraph (1) shall be carried out with due observance to the authority of other government agencies as regulated under this law.

Article 119 Patent Information.

The Patent Office shall maintain a patent documentation and information service with the formation of a national patent documentation system and information network capable of furnishing information regarding patented technology to the public, on the widest possible scale .

/Article 120 ---

Article 120
Ministerial Guidance.

In the administration of patents, the Patent Office shall be guided by and responsible to the Minister.

CHAPTER XI
RIGHT TO CLAIM

Article 121
Claim for Ownership.

- (1) If a patent is granted to a person other than the party who by virtue of Articles 11, 12 and 13 is entitled to such patent, then the party entitled to such patent may file a claim at the District Court of Central Jakarta so that the relevant patent including the rights thereto shall be given to him in full or in part or in joint ownership.
- (2) A copy of the judgement of the claim as referred to in paragraph (1) shall be promptly delivered by the Registrar of the District Court of Central Jakarta to the Patent Office for further recordation in the Patent Rolls and announcement in the Patent Official Gazette.

/Article 122 --

Article 122

Indemnification for Infringement

- (1) The Patent Holder or Licence Holder shall be entitled to claim indemnification through the local District Court against any person who has deliberately and without a right, committed any act referred to in Article 17 against his rights.
- (2) A claim for indemnification against any act referred to in Article 97 paragraph (1) letter b shall be received if it is proven that the result of such product has been made by using the invention for which patent has been granted.
- (3) The judgement of the District Court on a claim as referred to in paragraph (1) shall be promptly delivered by the Registrar of the relevant District Court to the Patent Office for further recordation in the Patent Rolls and announcement in the Patent Official Gazette.

Article 123

Injunction

- (1) In order to prevent greater losses of the party whose rights have been infringed, therefore, at any time during examination by the District Court the Judge may order the patent infringer to cease all acts as referred to in Article 17.

- (2) If a demand is made for the delivery of the products of the patent infringement or the value of such products, the Judge may order that such delivery may only be made after the court judgement has obtained permanent legal force, and after indemnification has been paid by claimant to the owner of the products who has good faith.

Article 124
Criminal Proceeding.

The right to file a claim, as regulated in this Chapter shall not detract the right of the State to institute criminal proceedings against a patent infringement.

Article 125
Appeals.

- (1) An appeal against the judgement of the District Court may be filed to the High Court and a cassation of the Supreme Court.
- (2) Any appeal or cassation judgement as referred to in paragraph (1) shall be promptly delivered by the Registrar of the District Court to the Patent Office for recordation in the Patent Rolls and announcement in the Patent Official Gazette.

CHAPTER XII

CRIMINAL PROVISIONS

Article 126

Criminal Sentence for Patent Infringement

Any person having deliberately and without right infringed the rights of a Patent Holder by committing any acts referred to in Article 17 shall be sentenced to imprisonment for a maximum period of seven years and a maximum fine of Rp. 100.000,000.00 (one hundred million Rupiah).

Article 127

Criminal Sentence for Simple Patent Infringement.

Any person having deliberately and without a right infringed the rights of a Simple Patent Holder by committing any acts as referred to in Article 17 shall be sentenced to imprisonment for a maximum period of five years and a maximum fine of Rp. 50.000.000.00 (fifty million Rupiah).

Article 128

Criminal Sentence for Disclosure of Secrecy.

Any person having deliberately failed to fulfill the obligations referred to in Article 27 paragraph (3), Article 46 and Article 52 shall be sentenced to imprisonment for a maximum period of five years.

/Article 129 ---

Article 129
Crimes.

Criminal acts as referred to in this Chapter shall mean crimes.

CHAPTER XIII
INVESTIGATION

Article 130
Investigations.

- (1) In addition to Police investigators of the Republic of Indonesia, certain civil servants working in a government department of which the scope of duties and the responsibilities include the development of patents, shall be vested with special authority as investigators as referred to in Law No. 8 of 1981 regarding Criminal Procedural Law to carry out investigation of criminal acts in the field of patents.
- (2) An investigator referred to in paragraph (1) shall be authorized to:
 - (a) examine the truth of a report or information concerning a criminal act in the field of patents;
 - (b) examine any person suspected of committing a criminal act in the field of patents;

- (c) request information and evidence from a person or entity with respect to an incident of criminal act in the field of patents;
 - (d) examine books, records and other documents related with any criminal act in the field of patents;
 - (e) examine certain locations suspected of having evidence of books, records, and other documents and confiscate material and products of infringement which may be used as evidence in the criminal case in the field of patents;
 - (f) request the assistance of experts in the course of investigation of criminal acts in the field of patents.
- (3) An investigator as referred to in paragraph (1) shall give notice of the commencement of an investigation and shall report the result of his investigation to the Public Prosecutor in accordance with the provision of Article 107 of Law No. 8 of 1981 concerning Criminal Procedural Law.

CHAPTER XIV
TRANSITIONAL PROVISIONS

Article 131
Transitional.

- (1) Within 1 (one) year as of the effective date of this law, any person having filed a patent registration application pursuant to Government Announcement of 1953 within ten years preceding the effective date of this law, may file a patent application based on the provisions of this law.
- (2) If a patent application which has been registered and fulfills the provisions referred to in paragraph (1) is not renewed within one year as of the effective date of this law, such patent application registration shall be deemed as expired.
- (3) The registration of a patent application based on the Announcement referred to in paragraph (1) which has been filed for more than ten years prior to the effective date of this law shall be declared as null and void.
- (4) The provisions of this Law shall prevail with respect to patent applications as referred to in paragraph (1) and in the event a patent is granted, the validity period thereof shall be calculated from the date of receipt of the patent application pursuant to such Announcement.

CHAPTER XV
OTHER PROVISIONS

Article 132

Function

The organization of a body the function of which shall be to provide considerations regarding strategic policies in patent affairs shall be carried out by the Government in accordance with the needs and development.

CHAPTER XVI
CLOSING PROVISIONS

Article 133

Repeal

All existing regulations concerning patents shall be declared null and void as of the date of enactment of this Law.

/Article 134 ---

Article 134
Effective Date.

This law shall be effective as of August 1, 1991.
In order for every person to be knowledgeable of this law, it
is hereby ordered that the enactment of this law shall be set
out in the State Gazette of the Republic of Indonesia.

Ratified in Jakarta

Date : November 1, 1989

PRESIDENT OF THE REPUBLIC OF INDONESIA

(signed)

S O E H A R T O

Enacted in : Jakarta

Date : On November 1, 1989

MINISTER/STATE SECRETARY OF THE
REPUBLIC OF INDONESIA

(signed)

M O E R D I O N O

STATE GAZETTE OF THE REPUBLIC OF INDONESIA. YEAR 1989 NUMBER 39

GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA
NO: 32 YEAR 1991
CONCERNING
IMPORT OF RAW MATERIALS OR CERTAIN PATENTED PRODUCTS
FOR THE DOMESTIC PRODUCTION OF DRUGS
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Considering :

- (a) that the implementation of development in the field of economy particularly in the industrial sector has produced results with substantial effect in the fulfillment of market demands specifically in the domestical market and in providing extensive employment opportunities for the society;
- (b) that with due observance to the aforesaid development, it is necessary to ensure the continuity and growth of business, particularly in national pharmaceutical industry which still remains dependent on the import of materials or certain products as raw materials for the continuity of its production;
- (c) that in connection with the abovementioned matters and pursuant to the provisions of Article 21 of Law Number 6 Year 1989 concerning Patent, it is deemed necessary to stipulate that the import of raw materials or certain patented products the implementation of which shall not constitute as an infringement of the relevant patent:

In view of :

1. Article 5 paragraph (2) of the 1945 Constitution:
2. Law Number 6 Year 1989 concerning Patent (State Gazette Year 1989 Number 39, Supplement to the State Gazette Number 3398).

D E C I D E S :

To enact : GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA
CONCERNING IMPORT OF RAW MATERIALS OF CERTAIN
PATENTED PRODUCTS FOR DOMESTIC PHARMACEUTICAL
PRODUCTION.

Article 1

Except for raw materials or certain products listed in the Enclosure of this Government Regulation, the import of patented products or products manufactured through any patented process which has been carried out by persons other than the Patent Holder and used for the production of drugs in Indonesia, shall constitute as an infringement of the relevant patent.

/Article 2 ---

Article 2

The patent as referred to in Article 1 shall be a patent which has been granted pursuant to Law Number 6 Year 1989 concerning Patent.

Article 3

This Government Regulation shall be effective as of the date of effect of Law Number 6 Year 1989 concerning Patent.

In order for every person to be knowledgeable of this Government Regulation, it is hereby ordered that the enactment of this Government Regulation shall be set out in the State Gazette of the Republic of Indonesia.

Ratified in : Jakarta

Date : June 11. 1991

PRESIDENT OF THE REPUBLIC OF INDONESIA

(signed)

S O E H A R T O

Enacted in : Jakarta

Date : June 11. 1991

MINISTER/STATE SECRETARY
OF THE REPUBLIC OF INDONESIA

(signed)

M O E R D I O N O

STATE GAZETTE OF THE REPUBLIC OF INDONESIA
YEAR 1991 NUMBER 40.

ENCLOSURE

GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA
NUMBER 32 YEAR 1991
DATED JUNE 11, 1991

LIST OF PRODUCTS OF WHICH IMPORTATION SHALL NOT BE DEEMED AS
INFRINGEMENT OF PATENT RIGHTS

1. ACIDUM PIPEMIDIC
2. ATENOLOL
3. ALBENDAZOL
4. AMINEPTINA
5. ACICLOVIR
6. ACID CLAVULANIC
7. ASTEMIZOLE
8. AZTREONAM
9. BACAMPICILLIN
10. BUDESONIDE
11. BITOLTEROL MESYLATE
12. BROMCRIPTINE MESYLATE
13. BIFONAZOL
14. CYCLOSPORIN
15. CEFADROXIL MONOHYDRAT
16. CEFOTAXIME SODIUM
17. CICLOPIROX OLAMINE
18. CYTARABINE HCL
19. CETRAXATE HCL
20. CEFSULODIN SODIUM
21. CEFOPERAZONE
22. DOMPERIDON
23. ESTAZOLAM

24. FENTIAZAC
25. ISOCONAZOL
26. IPRATROPIUM BROMIDE
27. IFOSFAMIDE
28. KETOCONAZOL
29. LABETALOL HCL
30. MINOXIDIL
31. MICONAZOL
32. METOPROLOL TARTRAT
33. METRIZAMIDE
34. MIANSERIN HCL
35. MIDAZOLAM MOLFATE
36. METILMICIN SO₄
37. NADOLOL
38. NICARDIPINE HCL
39. NOR FLOXACIN
40. OXATOMIDE
41. PIRONICAM
42. PRAZIQUANTEL
43. PROCATEROL HCL
44. PRAZOSIN HCL
45. SISOMICIN SULFAT
46. SULPROSTONE
47. TIEMONIUM METIL SO₄
48. TIOCONAZOLE
49. VINDESINE SO₄
50. VECURONIUM BROMIDE

PRESIDENT OF THE REPUBLIC OF INDONESIA
(signed)

S O E H A R T O

GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA
NUMBER : 33 YEAR 1991
CONCERNING
SPECIAL REGISTRATION FOR PATENT CONSULTANT
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Considering : (a) that in order to facilitate and expedite applications from overseas as well as local. Law Number 6 Year 1989 concerning Patent regulates the availability of Patent Consultant services:

(b) that in order to provide legal basis for carrying out Patent Consultant services, it is deemed necessary to stipulate Government Regulations concerning the registration of Patent Consultants:

In view of : 1. Article 5 paragraph (2) of the 1945 Constitution;
2. Law Number 6 Year 1989 concerning Patent (State Gazette Year 1989 Number 39, Supplement to the State Gazette Number 3398).

D E C I D E S :

To Enact : THE GOVERNMENT REGULATION CONCERNING SPECIAL REGISTRATION FOR PATENT CONSULTANTS.

Article 1

For the first time, any person who fulfills the requirements hereunder may be registered a Patent Consultant:

1. Holder of on Engineering and Natural Science Degree or a graduate of any other field;

/2. Has ---

2. Has worked as a Patent Consultant or has processed the filing of a patent application for a Government or private institution or individual, as evidenced from the experience to file patent applications, including the period of experience which shall be at least 2 (two) years before November 1, 1989.
3. Pay a registration fee of Rp. 500,000.- (Five hundred thousands rupiahs).

Article 2

The registration referred to in Article 1 shall be submitted within six months as from the day of enactment of this Government Regulation.

Article 3

The Patent Consultant who has been registered in accordance with the requirements as referred to in Article 1 and Article 2 may continue to carry out work as a Patent Consultant if the requirements which are further stipulated in a separate Government Regulation are fulfilled.

Article 4

Further requirements which are necessary for the implementation of special registration for Patent Consultants pursuant to this Government Regulation shall be regulated by the Minister of Justice.

Article 5

This Regulation shall be effective as of the date of its stipulation.

In order for the public to be knowledgeable of this Government Regulation, it is hereby ordered that the enactment of this Government Regulation shall be set out in the State Gazette of the Republic of Indonesia.

Ratified in Jakarta

On June 11, 1991

PRESIDENT OF THE REPUBLIC OF INDONESIA

(signed)

S O E H A R T O

Enacted in Jakarta

on June 11, 1991

MINISTER/STATE SECRETARY
OF THE REPUBLIC OF INDONESIA

(signed)

M O E R D I O N O

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 1991 NUMBER 41.

GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA
NO: 34 OF 1991
CONCERNING
PROCEDURE FOR PATENT APPLICATION

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Considering :

- (a) that in the framework of implementing a patent system as regulated in Law Number 6 of 1989 concerning Patent, provisions concerning the procedure of patent applications which are simple but may effectively perform such patent system are necessary;
- (b) that in connection with such intention in letter a, it is deemed necessary to stipulate provisions concerning the procedure for patent application in a Government Regulation;

In view of :

1. Article 5 paragraph (2) of the 1945 Constitution;
2. Law Number 6 of 1989 concerning Patent (State Gazette of 1989 Number 39, Supplement to the State Gazette Number 3398).

D E C I D E S :

TO ENACT : GOVERNMENT REGULATION CONCERNING PROCEDURE
FOR PATENT APPLICATIONS

CHAPTER I GENERAL PROVISIONS

Article 1 Definition

Under this Government Regulation :

1. The Patent Law shall mean Law Number 6 of 1989 concerning Patent.
2. Description or disclosure of invention shall mean a written explanation concerning the method of implementation of an invention so that it may be understood by persons skilled in the art.
3. Claim shall mean a written summary concerning the subject matter of the invention or part thereof for which protection in a form of a patent is requested.
4. Drawings shall mean technical drawings of an invention which contains a sign, symbol, letter, number, flowsheet, or diagram which illustrates the portions of the invention.
5. Abstract shall mean a concise summary of the invention which constitutes a summary of the subject matter of the description, claims or drawings.
6. Minister shall mean the Minister whose scope of duty and responsibility includes the administration of patents.
7. Patent Office shall mean an organizational unit within the sphere of a government department having authority and carrying out duties in the field of patents.

CHAPTER II PATENT APPLICATION

Part One Procedure To File Patent Applications

Article 2 Patent Application Requirements

- (1) Patent application shall be filed to the Patent Office in writing in the Indonesian language and a fee therefor must be paid, the amount of which and manner of payment shall be determined by the Minister.
- (2) Except as specifically regulated in Article 28 of the Patent Law, a patent application may be filed by the inventor or a person entitled to such invention or by a Patent Consultant as the attorney.
- (3) In the event a patent application is filed by a Patent Consultant, such application must be accompanied by a power of attorney.
- (4) If a patent application is not filed by a person other than the inventor, such application must be accompanied with a statement containing sufficient evidence that the patent applicant is entitled to the said invention.
- (5) The patent application documents may be delivered directly to the Patent Office or by means of the postal services.

Article 3

Requirements For Persons Filing Application

- (1) A patent application which is filed by an inventor also acting for and on behalf of another inventor must be accompanied by a written statement which contains the approval of such other inventor for the filing of such patent application.
- (2) A patent application which is filed by an attorney for and on behalf of an inventor or inventors must be accompanied by a power of attorney from the relevant inventor or inventors.
- (3) A patent application which is filed by a person entitled to the invention and also acting for and on behalf of another person also entitled to such invention must be accompanied by a written evidence that such persons are jointly entitled to the invention as well as a written statement of approval to file the patent application from such other person.
- (4) A patent application which is filed by a Patent Consultant for and on behalf of one or more persons entitled to the invention must be accompanied by a power of attorney from such person or persons entitled to the invention and a written evidence that such persons are jointly entitled to such invention.
- (5) The provisions concerning data completion as meant in this Article shall also prevail in the event any one or more inventors or those having received a right from such inventor passes away and such right is enforced by his heir.

Part Two
Application To Obtain a Patent

Article 4
Contents of Patent Application

A patent application shall consist of :

- a. an application letter to obtain patent;
- b. a description of the invention;
- c. one or more claims contained in the invention;
- d. one or more drawings mentioned in the description which are necessary for explanation;
- e. an abstract of the invention.

Article 5
Contents of Application Letter

An application letter to obtain a patent as referred to in Article 4 letter a shall be signed by the patent applicant and shall be filed in the form as determined by the Minister and shall contain :

- a. the date, month and year of the application;
- b. the full name and clear address of the patent applicant;
- c. full name and nationality of the inventor;
- d. full name and address of the Patent Consultant if the patent application filed by a Patent Consultant;
- e. title of invention;
- f. type of patent requested.

Part Three

Receipt of Patent Application Documents

Article 6

Procedure and Administration

- (1) The Patent Office shall issue a receipt for the patent application documents of which shall contain the number, the date and time of receipt, and shall record the same in a special register book provided therefor.
- (2) Further provisions concerning the procedure for receipt of patent application documents shall be regulated by the Minister.

Part Four

Division of Patent Application

Article 7

Division

Taking into account the provision that one patent application may be filed for one invention, therefore :

- a. a patent application which has been filed may be divided into two or more applications if such patent application contains two or more inventions:
- b. each patent application resulting from the division referred to in letter a may be filed as a separate application, and with respect to such patent application the same date of filing as the date of filing of the original patent application shall be given.

Article 8

Approval and Rejection

- (1) The division of a patent application as referred to in Article 7 shall be requested in writing to the Patent Office.
- (2) The application for division of a patent application as referred to in paragraph (1) shall be rejected if substantive examination on such patent application has been completed.
- (3) In the event an application for division of a patent application as referred to in paragraph (1) is approved therefor, the filing of the patent application documents resulting from such division must be received by the Patent Office no later than 3 (three) months as of the date of approval of such application division.
- (4) The time limit referred to in paragraph (3) shall also apply to the payment of fees related with the division of a patent application.

Article 9

- (1) Upon the approval of the Patent Office each patent application as referred to in article 7 letter b may be filed with priority right, if the original application before division has been filed with priority right.

- (2) Certain documents of the patent application which had been originally filed with priority right and have been received by the Patent Office may be deemed as data completion for such patent application resulting from division.

Article 10

- (1) The division of a patent application may be carried out upon the written advise of the Patent Office.
- (2) If the advice as referred to in paragraph (1) is approved, the delivery of certain documents which are required as a result of the division of the patent application shall be made no later than 3 (three) months as of the date of delivery of the written advise from the Patent Office.
- (3) The time limit referred to in paragraph (2) shall also apply to the payment of fees related with the division of a patent application.

Part Five
Modification of Patent Application

Article 11
Ordinary Patent to Simple Patent

The modification of a patent application from a patent for invention to a simple patent or vice versa, may be possible on condition that :

- a. a written application is filed to the Patent Office;
- b. a fee is paid, the amount and manner of payment of which shall be determined by the Minister.

Article 12
Rejection of Modification

The request for modification of a patent application as referred to in Article 11 shall be rejected if substantive examination for such patent application has been completed.

Article 13
Requirements For Modification

- (1) In the event an application for modification of a patent application as referred to in Article 11 is approved, such patent application must be filed with the necessary documents.

- (2) The patent application as referred to in paragraph (1) shall be made with due observance to the requirements stipulated in this Government Regulation.

Article 14

Announcement of Modification

- (1) In the event an application for modification of a patent application from a simple patent to a patent for invention is made, the Patent Office shall be obligated to announce such patent application if the requirements as referred to in Article 13 have been fulfilled.
- (2) The announcement of a patent application as referred to in paragraph (1) shall be made in accordance with the provisions stipulated in this Government Regulation.

CHAPTER III

DOCUMENTS OF PATENT APPLICATION

Part One

Requirements Concerning Delivery and Writing of Documents

Article 15

Copies

Unless determined otherwise, delivery of the description, claims, drawings and abstract and any other patent application documents shall be filed in triplicate.

Article 16

Writing Of Documents

The form and manner of writing the patent application documents shall be further regulated by the Minister.

Article 17

Translation into English

In view of the provision of Article 2 paragraph (1), in the event the original documents of the patent application is written in a foreign language other than English, the Patent Office may require such documents to be translated into English.

Article 18

Microorganism

(1) In the event the description of an invention concerns a specific microorganism, whilst it is not yet possible to disclose or make available such microorganism to the public at the time of filing of the patent application, then such description shall be accepted if it discloses in full and in an explicit manner the method of utilization of the microorganism and insofar as the following conditions are fulfilled :

- a. a sample of the microorganism has been deposited in a depository institution recognized by the Patent Office before the patent application is filed or before the date of receipt of patent application is given;

- b. such patent application filed shall contain sufficient elucidation of the features or characteristics of the relevant microorganism;
 - c. the name of the microorganism; the date of deposit, name of the depository institution and deposit number of such microorganism shall be included in the description of the relevant patent application.
- (2) If the information concerning matters as referred to in paragraph (1) letter c is not contained in the description, such information must be submitted to the Patent Office no later than 3 (three) months as of the date of receipt of the patent application documents.
- (3) The delivery of information concerning microorganism as referred to in paragraph (2) shall be deemed as an unconditional approval of the patent applicant to any person who at the time or after the announcement of the patent application files a written application to the Patent Office to obtain such deposited microorganism sample.

Article 19

Budapest Treaty

The depository institution or institutions as referred to in Article 18 paragraph (1) letter a shall mean institutions which are recognized by the Budapest Treaty on the International Recognition of the Deposit of Microorganisms of 1980.

Article 20
Request For Microorganism

- (1) A sample of the microorganism may be given to any person requiring the same upon the written approval of the Patent Office authorizing the release of such sample from the depository institution.
- (2) An application to obtain the approval of the Patent Office as referred to in paragraph (1), shall be submitted in writing to the Patent Office along with the following:
 - a. a statement to refrain from transferring such micro-organism sample to any other person until such patent application has been withdrawn or rejected or until the validity period of a patent expires in the event a patent has been granted;
 - b. a statement to use such sample for experiment purposes only until such patent application has been withdrawn, or deemed to be withdrawn or until a patent has been granted for the relevant invention.
- (3) Provisions regarding the procedure of request for a micro-organism sample shall be further regulated further by the Minister.

Article 21 Notification

In the event an application to obtain a microorganism sample as referred to in Article 20 has been approved by the Patent Office, such approval shall be promptly notified to the relevant patent applicant.

Part Two Description

Article 22 Contents of Description

The description or summary of the invention shall state the title of the invention as contained in the application letter to obtain patent and shall :

- a. emphasize the technical field related with the invention;
- b. elucidate the technical background of the invention, insofar as known by the patent applicant, which is necessary for the comprehension, research and examination of the invention and where possible state the reference documents of such technical background;
- c. elucidate the technical advantages and benefits, if any, in comparison with existing technological invention in the same field;

- d. briefly describe matters pertaining to the attached drawings;
- e. elucidate at least one method of implementation of the invention including one example and where necessary with reference to the attached drawings;
- f. elucidate the method of application of such invention in industry, or the manner of exploitation, if due to its nature it is difficult to describe such invention in a descriptive manner.

Article 23

Sequence of Description

Provisions concerning the sequence of the description referred to in Article 22 must be complied with, unless an arrangement in any other form is more appropriate and more capable of elucidating the invention for which patent has been requested.

Part Three

Claim

Article 24

Number, Features

- (1) An application to obtain patent may be filed with more than one claim.

- (2) If more than one claim is filed, each claim shall be given a sequential number.
- (3) Elucidation of the subject matter of an invention in a claim shall be written in a language and with terms commonly used for description in the field of technology.

Article 25 Writing of Claim

- (1) A claim shall be written in two parts consisting of :
 - a. part one, consisting of a statement showing the technical field of the previous invention;
 - b. part two, consisting of a technical statement concerning the invention for which patent protection has been requested and constituting an improvement over previously existing inventions.
- (2) If a claim is not written in two parts such claim shall only consist of a single statement containing the elucidation of the subject matter of the invention.

Article 26 Restriction

- (1) Unless deemed necessary, a claim shall not contain any sentence which is referential in nature or constitutes reference of the description or drawings attached thereto.

- (2) A claim shall not contain any drawing or graph, however, may contain a table and/or chemical or mathematical formula.
- (3) If a patent application contains a drawing, the claim may contain signs which refer to such drawing and shall be written in an orderly manner between parentheses.

Article 27

Unity of Invention

- A patent application consisting of or more claims however are inter-related shall be deemed as one unit of invention :
- a. an independent claim concerning product, an independent claim concerning the process for the manufacture of the product and an independent claim the utilization of such product; or
 - b. an independent claim concerning a process and an independent claim concerning an apparatus or machine to carry out such process; or
 - c. an independent claim concerning a product, an independent claim concerning the process for the manufacture of the product and an independent claim concerning the apparatus or machine to carry out such process.

Article 28

Additional fees

- (1) If a patent application contains more than 10 (ten) claims, additional fees shall be paid for the extra claims the amount of which shall be determined by the Minister.
- (2) The payment of additional fees as referred to in paragraph (1) shall be made no later than the time an application for substantive examination is submitted.
- (3) If the additional fees are not paid within the time frame referred to in paragraph (2), the extra claims shall be deemed as withdrawn.

Part Four

Drawing

Article 29

Necessity For Drawings

- (1) A patent application may be completed with drawings if same are necessary to illustrate the description of an invention.
- (2) In the event a patent application is not completed with drawings whilst the Patent Office deems that such drawings are necessary to illustrate the description, the Patent Office may request the patent applicant to provide the the same.

/Article 30 ---

Article 30

Sign

- (1) A drawing shall contain signs in the form letters or numbers, and shall not contain any sign in the form of writing unless such writing is absolutely necessary as a part of the relevant drawing.
- (2) Flowsheets and diagrams shall be considered as drawings.

Part Five

Abstract

Article 31

Form of abstract

- (1) Abstract concerning an invention shall be written in not more than 200 (two hundred) words, beginning from the title of invention as contained in the application letter to obtain patent.
- (2) The abstract referred to in paragraph (1) shall contain:
 - a. a summary of the claim and description of the invention including drawings, if any;
 - b. chemical or mathematical formula which is absolutely necessary to illustrate the invention.

Article 32
Technical field

- (1) The abstract referred to in Article 31 shall contain a statement indicating the scope of the technical field of the invention and clearly describes the subject matter of the invention as well as its uses.
- (2) The abstract referred to in paragraph (1) shall not contain any statement which is speculative in nature or a statement which shows a better or more valuable evaluation than the previous invention.

Article 33
Inclusion of Drawing

If the abstract of an invention refers to a drawing contained in the patent application documents, then in the letter of application to obtain patent a request may be made to the Patent Office to include such drawing in the announcement of the patent application.

CHAPTER IV ADMINISTRATIVE EXAMINATION

Article 34

Administrative requirements

- (1) The Patent Office shall:
 - a. examine the completion of administrative requirements which cover patent application documents; and
 - b. classification according to the type of patent application and field of invention.
- (2) As of the date of receipt of the patent application documents, the Patent Office shall treat such documents as confidential documents.

Article 35

Deficiencies

- (1) In the event there are deficiencies which concern the completion of the patent application documents, then within 14 (fourteen) days as of the date of receipt of the patent application documents, the Patent Office shall notify such deficiencies in writing, clearly and in detail to the inventor or the patent applicant to correct such deficiencies.
- (2) In the event the notification referred to in paragraph (1) is delivered to the patent applicant as the Patent Consultant, a copy of such notification shall be delivered to the inventor.

- (3) The completion of patent application documents referred to in paragraph (1) shall be delivered to the Patent Office no later than 3 (three) months as of the date of notification by the Patent Office.
- (4) In the event there are convincing reasons that technically it is difficult to fulfill such completion within the said time frame, the time limit referred to in paragraph (3) may be extended for a maximum period of 3 (three) months upon the approval of the Patent Office.

Article 36

Withdrawal

- (1) If deficiencies of completion of requirements as referred to Article 35 paragraph (1) are not fulfilled within the time frame referred to in Article 35 paragraphs (3) and (4), then such patent application shall be deemed as withdrawn.
- (2) The Patent Office shall notify in writing of the opinion of withdrawal of the patent application as referred to in paragraph (1) to the patent applicant.

/Article 37 ---

Article 37

- (1) In the event there are deficiencies which concern the fulfillment of requirements as referred to in Article 5 the Patent Office shall notify the person filing the patent application that such deficiencies should be completed or corrected within the period prior to the application for substantive examination.
- (2) The deficiencies as referred to in paragraph (1) shall not postpone the determination of the date of filing of the patent application.

Article 38

In the event the Patent Office has delivered the notification concerning deficiencies as referred to in Article 35 paragraph (1), the date of filing of the patent application shall be the date of receipt of the final fulfillment of the completion of the patent application by the patent Office.

Article 39

Fulfillment

In the event the Patent Office fails to deliver the notification concerning deficiencies within the time frame referred to in Article 35 paragraph (1) such patent application shall be deemed to have fulfilled the completion requirements of the patent application documents.

Article 40

Evidence of Receipt

If the patent application fulfills the requirements referred to in Article 4 and Article 5 and payment of fees for patent application as referred to in Article 2 paragraph (1) has been made, the Patent Office shall be obligated to provide a written evidence which contains :

- a. the date of filing of the patent application;
- b. type of patent application;
- c. name and address of the patent applicant;
- d. name and nationality of the inventor;
- e. title of invention;
- f. full name and address of the Patent Consultant, if the patent application is filed by a Patent Consultant.

CHAPTER V

WITHDRAWAL OF PATENT APPLICATION

Article 41

Requirements

- (1) A patent application may be withdrawn by submitting a letter therefor to the Patent Office which should be signed by the patent applicant or the inventor or the person entitled to the invention.

- (2) The request for the withdrawal of a patent application filed by a Patent Consultant, must be completed with a power of attorney from the inventor or the person entitled to the invention.
- (3) If a patent application for a patent is withdrawn, the fees for the patent application and all other fees which have been paid to the Patent Office shall not be refunded.

CHAPTER VI PATENT APPLICATION WITH PRIORITY RIGHT

Article 42 Certified copy

- (1) In addition to the fulfillment of the provisions referred to in Article 4, a patent application must be completed with a copy of the application letter to obtain patent which has been filed for the first time in another country in the event a patent application is filed with priority rights.
- (2) A copy of the patent application letter as referred to in paragraph (1) shall mean a copy which has been certified by the competent authorities in the country receiving the patent application for the first time.

Article 43

Certified Copy Unavailable

- (1) If the certified copy as referred to in Article 42 paragraph (2) cannot be submitted within the time frame as stipulated in Article 29 paragraph (2) of the Patent Law, then such patent application may be filed with an evidence of the copy of the patent application for the first time along with an evidence of the request for certification of such copy.
- (2) The submission of the data completion as referred to in paragraph (1) shall be deemed as the fulfillment of the provision of Article 29 paragraph (2) of the Patent Law.

Article 44

Requirements

- (1) In addition to the fulfillment of the requirements as referred to in Article 5, the application letter to obtain patent shall contain :
 - a. a statement that such patent application is filed with priority right;
 - b. the date of filing of the patent application for the first time in another country which constitutes the basis of the application with priority rights;
 - c. the name of countries other than Indonesia in which such patent application has been filed.

- (2) The statement as referred to in paragraph (1) may be submitted separately provided that the submission of the same is made within 4 (four) months as of the date of receipt of the patent application by the Patent Office.

Article 45

Further provisions

Further provisions concerning patent applications with priority rights shall be regulated by the Minister.

CHAPTER VII

PUBLICATION OF APPLICATION

Article 46

- (1) In view of the provisions in Article 47, Article 48, Article 49 and Article 50 of the Patent Law, the Patent Office shall announce a patent application for 6 (six) months by including the same in the announcement board at the Patent Office and published in the Patent Official Gazette.
- (2) During the period of announcement, the public may inspect the patent application documents and may submit a request to the Patent Office to obtain a copy of the relevant patent application documents along with a fee the amount of which shall be regulated by the Minister.
- (3) Further provisions concerning the form and contents of the announcement shall be regulated by the Minister.

Article 47

In order to provide an opportunity to the public to inspect the patent documents, the Patent Office shall provide a special space therefor and shall permit the public to inspect:

- a. the application letter to obtain a patent;
- b. claim;
- c. description;
- d. drawings;
- e. abstract.

Article 48

Objection

- (1) During the period of announcement, any person may submit his view or objections on the patent application currently announced with the provision that such view or objections are submitted in writing in the Indonesian language along with the reasons, explanation and supporting evidences or facts.
- (2) The Patent Office may request that the document written in a foreign language included in such view or objections shall be translated into Indonesian language.

/Article 49 ---

Article 49

Response

The Patent Office shall promptly deliver a copy of the letter containing the view or objections referred to in Article 48 paragraph (1) to the patent applicant or the inventor or the person entitled to the invention and shall give an opportunity to submit a written denial or explanation against such view or objections to the Patent Office.

Article 50

Unannouncement Applications

- (1) Upon the approval of the Minister, the Patent Office may decide not to announce a patent application if in its opinion such invention and its announcement are considered to be potentially disturbing to or contrary with the defence and security interests of the country.
- (2) The decision not to announce a patent application as referred to in paragraph (1) shall be notified in writing by the Patent Office to the patent applicant together with its reasons and if deemed necessary along with any prohibition of matters which cannot be carried out with respect to the relevant invention.

- (3) A copy of the notification letter referred to in paragraph (2) shall be delivered to the inventor or the person entitled to the invention if the patent application is filed by a Patent Consultant as the attorney.

Article 51

- (1) Insofar as the decision not to announce such patent application remains in force, the patent applicant or the inventor or the person entitled to the invention shall be prohibited from announcing matters related with the invention.
- (2) Each person is prohibited from making or assisting to make or to carry out similar actions so that such invention may be made overseas.
- (3) The provisions of Article 128 of the Patent Law shall be applicable on activities which contravene the provisions of paragraph (1) and paragraph (2).

CHAPTER VIII

SUBSTANTIVE EXAMINATION

Article 52

Procedure

- (1) After the termination of the announcement period, however, within 36 (thirty six) months as of the date of filing of the patent application, an application for substantive examination may be submitted by the patent applicant to the Patent Office.
- (2) The application for substantive examination referred to in paragraph (1) shall be submitted along with a fee the amount of which and manner of payment shall be determined by the Minister.
- (3) The application for substantive examination must be submitted in writing in a form which shall be determined by the Minister.

Article 53

Purpose

The purpose of substantive examination shall be to determine whether the invention for which patent has been requested may or may not be granted a patent.

Article 54

In the event substantive examination is requested on an invention for which a patent with priority rights has been requested, the Patent Office may request an explanation and the necessary documents concerning the decision on a patent application which has been filed in another country.

Article 55

Examination

(1) In conducting a substantive examination the Patent Office shall :

- a. examine the invention for which patent has been requested with other existing inventions based on, inter alia, the patent application documents as well as other available documents;
- b. consider any view or objections submitted by the public, if any, and any denial or explanation with respect to such view or objections;
- c. consider the documents which have been filed as the fulfillment of the deficiencies or completion required by the Patent Office and invite the patent applicant to provide any necessary additional explanation.

/(2) The ---

- (2) The performance of the activities referred to in paragraph (1) may be conducted by the Patent Office with due observance to the provisions of Article 58 and Article 59 paragraph (1) of the Patent Law.
- (3) The procedure to request completion or additional explanation referred to in paragraph (1) letter c and substantive examination activities referred to in paragraph (2) shall be further regulated by the Minister.

Article 56 Consideration

The decision that an invention for which patent has been requested may or may not be granted a patent shall be made with the following considerations, inter alia :

- a. novelty of the invention;
- b. inventive step contained in the invention;
- c. whether the invention may be applied or used in industry;
- d. whether the relevant invention is included in or excluded from the category of inventions which are not patentable.
- e. whether the inventor or the person further receiving the right of the inventor shall or shall not be entitled to the patent of such invention;
- f. whether such invention contravenes the rules and regulations, public order and morality.

Article 57

- (1) Substantive examination shall be conducted by the Patent Office within 24 (twenty four) months as of the date of receipt of the application letter for substantive examination.
- (2) With in the time frame referred to in paragraph (1) the Patent Office shall decide whether an invention for which patent has been requested shall or shall not be granted a patent.

CHAPTER IX

DECISION TO GRANT OR REFUSE A PATENT

Article 58

Patent Certificate

- (1) If based on the result of the substantive examination it is concluded that an invention for which patent has been requested shall be granted a patent, the Patent Office shall issue a Patent Certificate to the patent applicant.
- (2) If the patent applicant is a Patent Consultant as the attorney, a copy of the letter of delivery as well as a copy of the Patent Certificate referred to in paragraph (1) shall be given to the inventor or the person entitled to the invention.

Article 59
Date of Grant

(1) A patent shall be deemed to be granted on the date the Patent Certificate recorded in the Patent Rolls and thereafter shall be announced in the Patent Official Gazette.

(2) The Patent Certificate shall contain:

- a. the patent number;
- b. title of the invention;
- c. name and address of the patent holder;
- d. name of the inventor;
- e. date of filing of the patent application and number of the patent application;
- f. name of country or countries in which the Patent Application has been filed, in the event the application is filed with priority rights.
- g. date of grant of the patent.

Article 60
Contents of Patent Certificate

In addition to the information concerning matters referred to in Article 59 paragraph (2), the Patent Certificate shall be accompanied with patent document containing :

- a. the symbol or code in accordance with the classification determined in the International Patent Classification;
- b. date of announcement of the patent application;
- c. full name and address of the Patent Consultant, if any;
- d. abstract;
- e. the claim and the description;
- f. drawings, if any.

Article 61

Recordation And Announcement

- (1) The Patent Office shall record in the Patent Rolls each patent which has been granted which shall contain matters as referred to in Article 59 paragraph (2) and Article 60 letters a, b and c.
- (2) The Patent Office shall announce each patent which has been granted in the Patent Official Gazette which shall contain matters as referred to in Article 59 paragraph (2) and Article 60 letters a, b, c and d.

Article 62

Public Inspection And Excerpt

- (1) Any person may inspect the Patent Rolls and may obtain an excerpt therefrom by paying a fee the amount of which shall be determined by the Minister.
- (2) Any person may obtain a copy of the patent documents by paying a fee the amount of which shall be determined by the Minister.

CHAPTER X
APPLICATION FOR EXTENSION OF PATENT PERIOD

Article 63
Requirements

- (1) The period of a patent may be extended for two years by submitting a written application to the Patent Office within 12 (twelve) months and at least 6 (six) months before the expiry of the patent along with a fee the amount of which and manner of payment therefor shall be determined by the Minister.
- (2) The application for extension of the patent period as referred to in paragraph (1) shall include written evidence of matters referred to in Article 43 paragraph (1) letter b of the Patent Law.

Article 64
Approval and Rejection

- (1) The Patent Office shall grant the extension of the patent period if the requirements referred to in Article 63 paragraph (1) are fulfilled and verification thereof has been received the Patent Office.
- (2) The extension of the patent period referred to in paragraph (1) shall be granted prior to the date of expiry of the relevant patent period.

- (3) Further provision concerning the procedure for application of extension of a patent period, form and notification of such extension or the rejection thereof shall be regulated by the Minister.

CHAPTER XI CANCELLATION OF PATENT

Article 65 Exception

Provisions concerning cancellation of patent due to reasons as referred to in Article 94 paragraph (1) letter a of the Patent Law shall not apply if the non-performance or non-use of a patent in Indonesia is related with the rejection of a permit to manufacture or market products of the relevant patent in Indonesia.

Article 66

- (1) The implementation of a certain patent outside the territory of the Republic of Indonesia shall be deemed as a fulfillment of the obligation to implement a patent in Indonesia as referred to in Article 18 of the Patent Law provided that :

/a. the product ---

- a. the products of the relevant patent are marketed in the territories of the Republic of Indonesia and neighbouring countries; and
- b. in order to determine economic feasibility, a specific region must be used as a market unit.

(2) Any decision regarding matters referred to in paragraph (1) shall be made by the Minister based on a written application by the Patent Holder after considering the data and reasons included in such application and after hearing the considerations of the Minister or any other Government Official whose duty and responsibility include the relevant field of patent.

CHAPTER XII

TRANSITIONAL PROVISIONS

Part One

Refiling of Patent Application Which Has Been Registered Pursuant to Government Announcement of 1953

Article 67
Selection

A patent application has been filed pursuant to Government Announcement of 1953 and which has been received and registered at the Patent Office between August 1, 1981 until November 1, 1989 may be refiled to the Patent Office pursuant to provision of the Patent Law, from August 1, 1991 until July 31, 1992.

Part 2
Adjustment of Implementation

Article 68

- (1) With due observance to the specific interpretation and patent application process as referred to in this Government Regulation, the application of the provisions concerning restriction or basis of evaluation to determine the novelty of an invention must be adjusted in processing the patent application as referred to in Article 67.
- (2) In addition to matters concerning novelty, the provisions regulated in the Patent Law and this Government Regulation shall prevail with respect to Patent applications as referred to in Article 67.

/Article 69 ---

Article 69
Requirements

- (1) The filing of a patent application as referred to in Article 67 may be accepted provided :
- a. all provisions regulated under this Government Regulation are fulfilled;
 - b. a certified copy of the receipt of patent registration application based on Government Announcement of 1953 is attached thereto;
 - c. the description which has been filed at the time of registration of the patent application as referred to in letter b is not modified;
 - d. a copy of the Patent Certificate along with the relevant patent documents are enclosed, in the event a patent has been granted by the Patent Office in another country, if any, with respect to such invention.
- (2) If the provisions referred to paragraph (1) are fulfilled, then the relevant patent application shall be given a date of filing which shall be the same date as the date of filing of the patent registration application which has been filed pursuant to Government Announcement of 1953.

Article 70

- (1) If the patent application as referred to in Article 67 is not filed until July 31, 1992, such patent application shall be deemed as withdrawn.
- (2) If the refiling of a patent application is only received at the Patent Office after July 31, 1992, such patent application shall be rejected.
- (3) The Patent Office shall notify the rejection referred to in paragraph (2) in writing to the patent applicant within 30 (thirty) days as of the date of receipt of the patent application which has exceeded the time limit of July 31, 1992.

Article 71

- (1) If due to any reason the substantive examination of a patent application as referred to in Article 67 is not completed, whilst the patent period referred to in Article 9 of the Patent Law will or has been exceeded and the result of such examination later concludes that the invention for which patent has been requested be granted a patent, therefore, the relevant invention may be granted a patent for the extension period of 2 (two) years.
- (2) The period referred to in paragraph (1) shall not be further extended.

- (3) The maintenance fee or annual fee for the patent which has been granted as referred to in paragraph (1) must be paid in one lump sum for the whole period in the manner as regulation by the Minister.

Part Three

Opportunity To File Patent Application For An Invention of Which the Novelty Expires between November 1, 1989 until July 31, 1991.

Article 72

- (1) An invention which has been produced in Indonesia and announced in an official exhibition nationally or internationally or acknowledged to be official, of which its novelty has expired between November 1, 1989 until July 31, 1991, may be granted a patent if a patent application therefor has been filed between August 1, 1991 until January 31, 1992.
- (2) Without prejudice to the requirements in Article 4 and Article 5, a patent application as referred to in paragraph (1) must be accompanied with a certified statement of participation in an exhibition which should include the time of such exhibition.
- (3) If the patent application referred to in paragraph (1) is filed after January 31, 1992, such patent application shall be rejected by the Patent Office.

- (4) The rejection referred to in paragraph (2) shall be notified immediately by the Patent Office to the person filing the patent application.

Part Four

Opportunity To File Patent Application For Patent Applications Filed Overseas Which the Priority Period Has Expired Between November 1, 1989 until July 31, 1991.

Article 73

- (1) A patent application which has been filed for the first time in another country and the priority period of which has expired between November 1, 1989 until July 31, 1991, may file a patent application in Indonesia as from August 1, 1991 until January 31, 1992.
- (2) The filing of the patent application as referred to in paragraph (1) shall be made with due observance to the provisions concerning patent applications with priority right as referred to in Article 42 until Article 45.
- (3) The date of filing of a patent application for a patent application as referred to in paragraph (1) shall be the date of completion of documents of the relevant patent application.

/Part Five ---

Part Five

Patent Application Filed Overseas Of Which the Priority Period Expires Between August 1, 1991 until September 30, 1991

Article 74

A patent application which has been filed for the first time in other country and the priority period of which has expired between August 1, 1991 until September 30, 1991, shall be given the opportunity to file a patent application at the latest until October 31, 1991.

CHAPTER XIII

CLOSING PROVISIONS

Article 75

Effective Date

This Government Regulation shall be effective as of the date of its enactment.

In order for every person to be knowledgeable of this Government Regulation, it is hereby ordered that the enactment of this Government Regulation shall be set out in the State Gazette of the Republic of Indonesia.

Ratified in Jakarta
on June 11, 1991
THE PRESIDENT
OF THE REPUBLIC OF INDONESIA

(signed)

S O E H A R T O

Enacted in Jakarta
June 11, 1991
MINISTER/STATE SECRETARY
OF THE REPUBLIC OF INDONESIA

(signed)

M O E R D I O N O
STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 1991 NUMBER 42.

Directorate General of
Copyright, Patent, and Trademark
Ministry of Justice

PATENT SUBSTANTIVE EXAMINATION APPLICATION FORM

I/we^{)} :*

Name :

.....

Address :

.....

Telephone :

filing/processing the filing of^{)} the patent application*
under:

Registration Number of

Patent Application :

Title of Invention :

.....

.....

hereby request for a substantive examination to be conducted
on such patent application.

I/We herewith enclose the evidence of payment for substantive examination.

This application is submitted in order to be further processed.

.....

Applicant,

(sign)

.....

Note :

*) Delete where necessary

Directorate of Patent
Directorate General of
Copyright, Patent, and Trademark
Ministry of Justice

APPLICATION FORM FOR COPY OF PATENT DOCUMENTS AND OR EXCERPT
FROM PATENT ROLLS

I/we*) :

Name :

.....

Occupation :

Address :

.....

Telephone :

herewith submit an application for a copy of patent documents
and or excerpt from the Patent Roll*) as follows :

- Copy of Patent Documents :

Country :

Number :

.....

.....

.....

.....

.....

.....

- Excerpt from the Patent Roll or patent under number :

.....
.....
.....

I/We herewith enclose the evidence of payment for the
aforesaid purpose.

This application is submitted in order to be further
processed.

.....

Applicant,

signed

.....

Note :

*) Delete where necessary

DECISION OF THE MINISTER OF JUSTICE
OF THE REPUBLIC OF INDONESIA
NUMBER : M - 01.HC.02.10 YEAR 1991
CONCERNING
SIMPLE PATENT

MINISTER OF JUSTICE OF THE REPUBLIC OF INDONESIA

Considering : that it is deemed necessary to regulate further provisions concerning Simple Patent as the implementation of Article 113 of Law Number 6 Year 1989 concerning Patent.

In view of : 1) Law Number 6 Year 1989 concerning Patent (State Gazette Year 1989 Number 39, Supplement to the State Gazette Number 3398);
2) Decision of the President Number 15 Year 1984 concerning the Organizational Structure of Departments as amended several times, the latest by the Decision of the President Number 32 Year 1988 for the Ministry of Justice;

\3) Decision ---

3) Decision of the Minister of Justice of the Republic of Indonesia Number M.02.PR.07-10 Year 1989 concerning Organization and Work Procedure of the Ministry of Justice.

D E C I D E S :

To enact : DECISION OF THE MINISTER OF JUSTICE OF THE
REPUBLIC OF INDONESIA CONCERNING SIMPLE PATENT.

CHAPTER I GENERAL PROVISIONS

Article 1

Under this decision :

1. Description or disclosure of invention shall mean a written explanation on the way of carrying out the invention which may be understood by persons skilled in the art.
2. Claim shall mean the description of the matter or subject matter of the invention for which legal protection in the form of a patent is sought.
3. Drawings shall mean technical drawings of an invention which contain signs, symbols, letters, numbers, flowcharts, or diagrams which illustrate the parts of the invention.
4. Abstract shall mean a brief description of the invention which constitutes a summary of the description, claims and drawings.

CHAPTER II

REQUIREMENTS FOR FILING A SIMPLE PATENT APPLICATION

Article 2

- (1) A simple patent application shall be filed by filling out an application form which contains:
 - a. date, month, and year of the application;
 - b. full name and address of the applicant;
 - c. full name and nationality of the inventor;
 - d. full name and address of the patent consultant, if a patent application is filed by a Patent Consultant;
 - e. title of invention; and
 - f. type of patent requested.
- (2) A simple patent application as referred to in paragraph (1) shall be accompanied with the following:
 - a. description of the invention;
 - b. a claim of the invention;
 - c. one or more drawings mentioned in the description and required for explanation;
 - d. abstract;

- e. a power of attorney if the patent application is filed by a Patent Consultant;
 - f. an assignment from the inventor(s) or the person(s) entitled to the invention, if the relevant patent application is not filed in their name.
- (3) Unless otherwise provided, the description, claim, drawing(s), abstract, and other patent application documents shall be filed in triplicate.
- (4) The form and contents of such patent application form as referred to in paragraph (1) shall be determined by the Patent Office.

Article 3

- (1) The requirements concerning novelty, inventive steps, and applicability in industry as defined for patent as conditions to obtain a patent shall also apply for the granting of a simple patent.
- (2) The fee for the application and examination of a simple patent shall be paid at the same time the relevant simple patent application is filed.

(3) The amount of the fees referred to in paragraph (2) shall be determined by the Minister of Justice.

Article 4

This Decision shall be effective as of the date of its enactment.

Enacted in Jakarta
on July 31, 1991

(Official stamp of	MINISTER OF JUSTICE
the Minister of	OF THE REPUBLIC OF INDONESIA
Justice of Republic	
of Indonesia)	(signed)

ISMAIL SALEH SH

DECISION OF THE MINISTER OF JUSTICE
OF THE REPUBLIC OF INDONESIA
NUMBER : M - 02.HC.02.10 YEAR 1991
CONCERNING
THE PATENT PUBLICATION

MINISTER OF JUSTICE OF THE REPUBLIC OF INDONESIA

Considering : that in order to expedite and improve information service to the public, it is deemed necessary to regulate rules concerning the announcement of patent, as the implementation of Article 54 and Article 65 the Law Number 6 Year 1989 concerning Patent.

In view of : 1) Law Number 6 Year 1989 concerning Patent (State Gazette Year 1989 Number 39, Supplement to the State Gazette Number 3398);

2) Decision of the President Number 15 Year 1984 concerning The Organizational Structure of Departments, as amended several times, the latest by the Decision of the President Number 32 year 1988 for the Ministry of Justice.

3) Decision of the Minister of Justice of the Republic of Indonesia Number M.02.PR.07-10 Year 1989 concerning the Organization and Work Procedure of the Ministry of Justice.

DECIDES :

To enact : DECISION OF THE MINISTER OF JUSTICE OF THE REPUBLIC OF INDONESIA CONCERNING THE PATENT PUBLICATION.

Article 1

- (1) The publication of a patent application shall contain:
- a. publication number of patent application;
 - b. patent application number;
 - c. priority application number, if any;
 - d. filing date;
 - e. publication date of patent application;
 - f. name and address of applicant ;
 - g. name and address of Patent Consultant, if any;
 - h. name of inventor;
 - i. title of invention;
 - j. abstract; and
 - k. drawings, if any.

- (2) The application of a simple patent shall not be published, however, shall be subject to an immediate substantive examination.

Article 2

The publication of a patent which has been granted shall contain:

- a. patent application number;
- b. priority application number, if any;
- c. patent number;
- d. filing date;
- e. publication date of patent application;
- f. name and address of patent holder;
- g. name and address of the patent consultant, if any;
- h. name of inventor;
- i. title of invention;
- j. abstract; and
- k. drawing, if any.

Article 3

The publication of the rejection of a patent application shall contain:

- a. patent application number;
- b. filing date;

- c. title of invention, and
- d. name and address of the applicant(s).

Article 4

The publication of an approval or rejection of an application for extension of the patent protection period shall contain:

- a. patent number;
- b. filing date;
- c. date of granting of a patent;
- d. title of invention; and
- e. name and address of patent holder.

Article 5

The publication of the mutation of a patent shall contain:

- a. patent number;
- b. filing date and date of granting of patent;
- c. title of invention;
- d. reasons for mutation;
- e. name and address of initial patent holder;
- f. name and address of the new patent holder;

/Article 6 ---

Article 6

The publication of the licensing of a patent shall contain:

- a. patent number;
- b. date of granting of patent;
- c. title of invention;
- d. name and address of the patent holder;
- e. name and address of license holder;
- f. type of license; and
- g. information.

Article 7

The publication of a court judgement in connection with a patent shall contain:

- a. number and date of the court judgement;
- b. contents of the court judgement;
- c. patent number;
- d. filing date and date of granting of patent ;
- e. name and address of patent holder;
- f. title; and
- g. information.

- c. title of invention, and
- d. name and address of the applicant(s).

Article 4

The publication of an approval or rejection of an application for extension of the patent protection period shall contain:

- a. patent number;
- b. filing date;
- c. date of granting of a patent;
- d. title of invention; and
- e. name and address of patent holder.

Article 5

The publication of the mutation of a patent shall contain:

- a. patent number;
- b. filing date and date of granting of patent;
- c. title of invention;
- d. reasons for mutation;
- e. name and address of initial patent holder;
- f. name and address of the new patent holder;

/Article 6 ---

Article 6

The publication of the licensing of a patent shall contain:

- a. patent number;
- b. date of granting of patent;
- c. title of invention;
- d. name and address of the patent holder;
- e. name and address of license holder;
- f. type of license; and
- g. information.

Article 7

The publication of a court judgement in connection with a patent shall contain:

- a. number and date of the court judgement;
- b. contents of the court judgement;
- c. patent number;
- d. filing date and date of granting of patent ;
- e. name and address of patent holder;
- f. title; and
- g. information.

Article 8

The publication of a withdrawn patent application or an invalidated patent shall contain:

- a. patent application number or patent number;
- b. filing date;
- c. title;
- d. name of patent applicant or patent holder;
and
- e. reasons for withdrawal or invalidation.

Article 9

- (1) The publication as referred to in Article 1 and Article 2 shall be performed by the Patent Office by placing the same on announcement boards at the Patent Office as well as in the Patent Official Gazette;
- (2) The publication as referred to in Article 3 until Article 8 shall be performed by the Patent Office by placing them in the Patent Official Gazette;
- (3) Further information concerning the patent application which has been published and patent which has been granted can be obtained from the Patent Office.

Article 10

This Decision shall be effective as of the date
of its enactment.

Enacted in Jakarta

On July 31. 1991

(Official stamp
of the Minister
of Justice
of the Republic
of Indonesia)

MINISTER OF JUSTICE
OF THE REPUBLIC OF INDONESIA

(signed)

ISMAIL SALEH SH

DECISION OF THE MINISTER OF JUSTICE
OF THE REPUBLIC OF INDONESIA
NUMBER : M.04 - HC.02.10 YEAR 1991
CONCERNING
THE REQUIREMENTS, TIME FRAME, AND PROCEDURE
TO PAY PATENT FEES

THE MINISTER OF JUSTICE OF THE REPUBLIC OF INDONESIA

Considering : a. that in order to expedite and improve service to the public in the field of patent, it is necessary to set the rule concerning the requirements, time frame, and procedure to pay patent fees as the implementation of Article 114 of Law Number 6 Year 1989 concerning Patent.

b. that based on the consideration in letter a, it is necessary to stipulate the Decision of the Minister of Justice of the Republic of Indonesia concerning the Requirements, Time Frame, and Procedure to Pay Patent Fees.

In view of : 1. Law Number 6 Year 1989 concerning Patent (State Gazette Year 1989 Number 39, Supplement to the Gazette Number 3398);

2. Government Regulation Number 34 Year 1991 concerning the Procedure of Patent Application (State Gazette Year 1991 Number 42, Supplement to the Gazette Number 3444);
3. Decision of the President Number 15 year 1984, concerning The Organizational Structure of Departments as amended several times, the lastest by the Decision of the President Number 32 Year 1989 for the Ministry of Justice;
4. Decision of the President Number 29 Year 1984 concerning Implementation of National Income and Expenditure Budget;
5. Decision of the Minister of Justice of the Republic of Indonesia Number M.02.PR.07-10 Year 1989 concerning the Organization and Work Procedure of the Ministry of Justice.

With due observance to :

Approval of Minister of Finance Number S.997 MK.013/1991 dated August 30, 1991 concerning the Management and Amount of Patent Fees.

D E C I D E S :

To enact : DECISION OF THE MINISTER OF JUSTICE OF THE
REPUBLIC OF INDONESIA CONCERNING THE REQUIRE-
MENTS, TIME FRAME, AND PROCEDURE TO PAY PATENT
FEES.

Article 1

The payment of patent fees shall be done by filling out in
advance the related forms provided by the Patent Office.

Article 2

The payment of patent fees as referred to in Article 1
shall be made directly and in cash to the Patent Office which
shall thereafter be deposited to the National Treasury.

Article 3

The payment of the patent application fees shall be made at
the time the relevant patent application is filed.

/Article 4 ---

Article 4

- (1) The payment of substantive examination fees shall be made at the time the relevant patent substantive examination application is submitted.
- (2) A patent application containing more than 10 (ten) claims shall be subjected to additional fees which must be paid to the Patent Office not later than the time the patent substantive examination application is submitted.
- (3) If the additional fees as referred to in paragraph (2) is not paid timely, substantive examination shall not be conducted on the additional claims and only the first 10 (ten) claims will be examined by the patent examiner.

Article 5

The payment of fees for the application and substantive examination of a simple patent application shall be paid in full upon the submission of such patent application.

Article 6

- (1) The payment of fees for the change in type of patent application shall be made upon the submission of such application for change.

- (2) In addition to the fees as referred to in paragraph (1), an applicant who submits an application for change in his patent application to a simple patent application, must pay the fee for substantive examination of a simple patent upon the submission of the relevant application for change in the type of patent application.
- (3) In addition to the fees as referred to in paragraph (1), an applicant who submits an application for the change of his simple patent application to become a patent application, must pay the patent substantive examination fees at the latest upon the submission of the relevant application for patent substantive examination.

Article 7

The payment of the fees for appeal against the result of a patent substantive examination shall be made upon the submission of such application of appeal.

Article 8

- (1) The first payment of the annual patent fees shall be made no later than 1 (one) year as of the date the patent is granted.
- (2) Each subsequent payment of the annual fees shall be made no later than the same date the patent is granted.

- (3) The payment of annual fees after the time limit referred to in paragraph (2), shall be subjected to an additional fee of 25 % (twenty five percent) of the fees payable for the relevant year.
- (4) The late payment of annual fees as referred to in paragraph (1) shall be notified in writing by the Patent Office within 7 (seven) days after the stipulated time frame to the relevant patent holder.
- (5) The non-receipt of the notification as referred to in paragraph (4) by the person concerned shall not detract the obligation to pay annual patent fees.

Article 9

- (1) If payment of the annual patent fees as referred to Article 8 are not paid for 3 (three) consecutive years, the patent shall be deemed to have expired as from the date of the time limit of the obligation to pay for the third year.
- (2) The invalidation of a patent due to the non-payment of annual Patent fees for 3 (three) consecutive years shall not detract the obligation of the patent holder to settle the fees payable for such outstanding years.

/Article 10 ---

Article 10

- (1) The payment of registration fees for the recordation of a patent licence agreement shall be made upon filing the application for registration of the relevant patent license agreement.
- (2) The first payment of the annual license fees shall be made no later than 1 (one) year as from the date of the recordation of the patent license agreement.
- (3) The subsequent payment of the license fees shall be made no later than the same date of recordation of the patent license.
- (4) If the license fees are not paid within the time frame as specified in paragraph (2), the recordation of the relevant patent license agreement shall be deemed as invalid by the Patent Office.
- (5) Payment of the annual license fees may be made in advance for several years.

Article 11

Payment of the application fee for the Previous Inventor Certificate shall be made upon submission of such application.

/Article 12 ---

Article 12

- (1) Payment of the application fee for extension of the patent period shall be made upon submission of such application for extension, and at least 6 (six) months before the expiration of the patent period.
- (2) If the application fee for the extension of the patent period is not paid within the time frame specified in paragraph (1), such application shall be rejected by the Patent Office.

Article 13

Payment of the fees to obtain a priority certificate shall be made upon the submission of such application.

Article 14

Payment of the application fees for an Official Statement to obtain a sample of a micro-organism shall be made upon the submission of such application.

Article 15

Payment of the application fees for the recordation of the transfer of a patent shall be made upon the submission of such application.

Article 16

Payment of the application fees for copies of patent documents or excerpts from the Patent Rolls shall be made upon submission of such application.

Article 17

Patent fees that have been paid cannot be withdrawn.

Article 18

The amount of the fees as referred to in Article 3 until Article 16 shall be as contained in the enclosure of this Decision.

Article 19

The patent fees as contained in the attachment of this Decision shall be periodically reviewed in accordance with the situation.

Article 20

This Decision shall be effective as of August 1, 1991.

Enacted in Jakarta
on September 18, 1991

(Official stamp	MINISTER OF JUSTICE
of the Minister	OF THE REPUBLIC OF INDONESIA
of Justice of the	
Republic of	(signed)
Indonesia)	

ISMAIL SALEH SH

Enclosure of the Decision of
the Minister of Justice
Number : M.04 - HC.02.10 Year 1991
Dated : September 18, 1991

PATENT FEES

No.	Types of Fees	Amount (Rp)	Remarks
<hr/>			
1.	Patent Application :		
	- Patent	200,000	
	- Simple Patent	100,000	
2.	Refiling of Patent Application :		
	- Patent	100,000	
	- Simple Patent	50,000	
3.	Patent Substantive Examination :		
	- Patent	750,000	
	- Simple Patent	300,000	
4.	Additional Fee for Each Claim Exceeding 10 (Ten) Claims	25,000	
5.	Change in Type of Patent Application	50,000	
6.	Appeal Application	250,000	
7.	Application for Previous Inventor Certificate	500,000	

8. Application for Extension of Patent Protection Period	50.000	
9. Application for Priority Certificate	25,000	without enclosure
10. Application for Official Statement to obtain sample of Micro-organism	25.000	
11. Application for Recordation of Assignment of Patent	50,000	
12. Registration of Recordation of License Agreement or Compulsory License	50,000	
13. Annual Fees of License or Compulsory License	50,000	per year
14. Application for Excerpt from Patent Rolls	25,000	
15. Application for copy of Patent Documents	1.000	per page

		Amount (Rp)	
16.	Maintenance Fee for Patent	-----	
		Basic Fee	Add. Fee for each claim

a.	Year 1 (first year after the patent grant)	100.000,-	10.000,-
b.	Year 2 (second year after the patent grant)	120.000,-	20.000,-
c.	Year 3 (third year after the patent grant)	150.000,-	50.000,-
d.	Year 4 (fourth year after the patent grant)	180.000,-	80.000,-
e.	Year 5 (fifth year after the patent grant)	220.000,-	120.000,-
f.	Year 6 (sixth year after the patent grant)	270.000,-	170.000,-
g.	Year 7 (seventh year after the patent grant)	330.000,-	230.000,-
h.	Year 8 (eighth year after the patent grant)	400.000,-	300.000,-
i.	Year 9 (ninth year after the patent grant)	480.000,-	380.000,-
j.	Year 10 (tenth year after the patent grant)	580.000,-	480.000,-
k.	Year 11 (eleventh year after the patent grant)	700.000,-	600.000,-
l.	Year 12 (twelfth year after the patent grant)	840.000,-	740.000,-
m.	Year 13 (thirteenth year after the patent grant)	1.000.000,-	800.000,-
n.	Year 14 (fourteenth year after the patent grant)	1.200.000,-	1.040.000,-
o.	Year 15 (fifteenth year after the patent grant)	1.450.000,-	1.200.000,-

(Official stamp
of the Minister
of Justice of the
Republic of
Indonesia)

MINISTER OF JUSTICE
OF THE REPUBLIC OF INDONESIA

(signed)

ISMAIL SALEH SH

DECISION OF THE MINISTER OF JUSTICE
OF THE REPUBLIC OF INDONESIA
NUMBER : M.06 - HC.02.10 YEAR 1991
CONCERNING
THE PROCEDURE TO FILE PATENT APPLICATIONS
THE MINISTER OF JUSTICE OF THE REPUBLIC OF INDONESIA

Considering : a. that as the implementation of Article 30 of Law Number 6 Year 1989 concerning Patent, it is necessary to regulate provisions concerning the procedure to file patent applications;

b. that based on the consideration in letter a, it is necessary to stipulate the Decision of the Minister of Justice concerning the Procedure to File Patent Applications;

In view of : 1. Law Number 6 Year 1989 concerning Patent (State Gazette Year 1989 Number 39, Supplement to the Gazette Number 3398);

2. Decision of the President Number 15 Year 1984, concerning The Organizational Structure of Departments as amended several times, the latest by the Decision of the President Number 32 year 1988 for the Ministry of Justice;

3. Decision of the Minister of Justice Number M.02.PR.07-10 Year 1989 concerning The Organization and Work Procedure of the Ministry of Justice;

4. Decision of the Minister of Justice Number
M.04-HC.02.10 Year 1991 concerning The Re-
quirements, Time Frame, and Procedure to Pay
Patent Fees.

D E C I D E S :

To enact : DECISION OF THE MINISTER OF JUSTICE OF THE
REPUBLIC OF INDONESIA CONCERNING PROCEDURE TO
FILE PATENT APPLICATIONS

CHAPTER I
GENERAL PROVISIONS

Article 1

Under this Decision :

1. A description or disclosure of the invention shall mean a written explanation on the way of carrying out the invention which may be understood by persons skilled in the art.
2. Claim shall mean the description of the matter or subject matter of the invention for which protection in a form of a patent is sought.
3. Drawings shall mean technical drawings of an invention which contains signs, symbols, letters, numbers, flow-charts, or diagrams which illustrate the parts of the invention.
4. Abstract shall mean a concise summary of the invention which constitutes a summary of the subject matter of the description, claims, or drawings.
5. Micro-organism shall mean an organism (living thing) which may only be seen with the aid of a microscope.

CHAPTER II
REQUIREMENTS TO FILE A PATENT APPLICATION

Article 2

- (1) A patent application shall be filed by filling out an application form which contains:
- a. date, month, and year of the application letter;
 - b. full name and address of the applicant;
 - c. full name and nationality of the inventor;
 - d. full name and address of the patent consultant, if a patent application is filed by a Patent Consultant;
 - e. title of invention;
 - f. type of patent requested.
- (2) The patent application as referred to in paragraph (1) shall enclose the following:
- a. a description of the invention;
 - b. claim(s) contained in the invention;
 - c. one or more drawings mentioned in the description which are necessary in order to explain;
 - d. an abstract;
 - e. a power of attorney, if the patent application is filed by a Patent Consultant;
 - f. a letter of assignment from the inventor(s) or the party entitled to the invention, if the patent application is not applied in their/names.

- (3) Unless stipulated otherwise, the description, claim, drawing(s) and abstract, and other patent related application documents shall be filed in triplicate copies.
- (4) The form and contents of the application form as referred to in paragraph (1) is attached hereto.

Article 3

- (1) In addition to the fulfillment of the requirements referred to in Article 2, an invention which has been published in an official exhibition or in an exhibition which is deemed to be official, shall enclose a Certificate of Exhibition containing the date of the exhibition of the invention, and the description of such invention which has been certified by the organizer of the exhibition.
- (2) If the date of exhibition of the invention is not inserted in the certificate, then the publication of the invention will be deemed to have been made as of the opening date of the exhibition.
- (3) The certificate and description as referred to in paragraph (1) must be submitted at the time the patent application is filed or at the latest 3 (three) months after the filing date of the application.

/Article 4 ---

Article 4

The physical requirements for the presentation of the description, claim(s), abstract, and drawing(s) are as follows:

1. Only 1 (one) page of every sheet may be used to write the description, claim(s) and abstract, and to make the drawing(s).
2. The description, claim(s), and abstract shall be typed on detached A₄ size bonded paper (29.7x21cm) with minimum weight of 90 grams with the following margins :
 - a. Top margin : 2 cm;
 - b. Bottom margin : 2 cm;
 - c. Left margin : 2.5 cm;
 - d. Right margin : 2 cm;
3. The A₄ size paper referred to in point 2 shall be white in colour, smooth, lustreless, and to be used by placing the short edges at the top and bottom (unless it is used for drawings).
4. Each sheet of the description, claim(s), and drawing shall be numbered in sequence using arabic numerals at the top center and not at the top margin.
5. On the left side of every sheet containing the description and claim(s), a line number must be placed at the side of every fifth line, which number shall start from the beginning for every new sheet and shall not be written on the left margin.

6. Typing shall be in black colour with spacing of 1.5 between each line, with upright letters of which the minimum height of the capital letters shall be 0.21 cm.
7. Marks made by lines, chemical or mathematical formula and specific marks may be either written or drawn.
8. Drawing(s) shall be made by using black chinese ink, on white, lustreless A₄ sized paper with minimum weight of 100 grams with the following margins :
 - a. Top margin : 2.5 cm;
 - b. Bottom margin : 1 cm;
 - c. Left margin : 2.5 cm;
 - d. Right margin : 1.5 cm;
9. All patent application documents shall not be torn, folded, or damaged.
10. All terminology used in the description, claim(s), abstract, and drawing(s) must be consistent.

CHAPTER III

MICRO-ORGANISM

Article 5

- (1) For a patent application related with a micro-organism, the requirements referred to in Article 2 must be fulfilled and a certificate of deposit of micro-organism, which has been issued by a recognized depository institution as referred to in the Budapest Treaty along with 2 (two) copies of same must be enclosed in such patent application.

- (2) The certificate as referred to in paragraph (1) shall be translated into the Indonesian language and submitted in duplicate to the Patent Office not later than 3 (three) months from the filing date, or with respect to patent applications claiming priority rights, not later than the period of its priority.
- (3) The filing of a patent application related with a micro-organism must cover all specific characteristics contained therein.

Article 6

- (1) Any person may request a sample of the deposited micro-organism to the recognized depository institution after the patent application related with the relevant micro-organism has been published.
- (2) The request for a sample of the micro-organism as referred to in paragraph (1) shall include a statement from the Patent Office.
- (3) In order to obtain an official statement from the Patent Office as referred to in paragraph (2), the person submitting a request to obtain such sample of the micro-organism shall be required to fill out a form provided by the Patent Office and to pay a fee which amount has been determined in the Decision of the Minister of Justice number M.04-HC.02-10 Year 1991 concerning the Requirements, Time Frame, and Procedure to Pay Patent Fees.

- (4) The Patent Office shall be obligated to send a copy of the request to obtain a sample of the micro-organism and the official statement from the Patent Office to the person filing the relevant patent application or its Patent Consultant, or the patent holder.

Article 7

- (1) If a micro-organism which has been deposited in a depository institution ceases to be viable or if for any reason the depository institution is temporarily non-operational or dissolved, the relevant party shall be required to submit a new deposit of the same micro-organism.
- (2) The obligation to submit a new deposit of the same micro-organism as referred to in paragraph (1) shall be made to the Patent Office within 3 (three) months from the announcement concerning the cessation of such micro-organism because it is no longer viable or any other reason that the depository institution is unable to supply samples either temporarily or permanently.
- (3) If the depository institute which is temporarily non-operational or dissolved does not transfer the relevant micro-organism to another depository institute, then the person filing the patent application or owner of the relevant patent shall be required to deposit such micro-organism in another depository institute.

- (4) The person depositing the micro-organism in another depository institute as referred to in paragraph (3) shall be required to submit a new deposit certificate.
- (5) The obligation to submit certificate as referred to in paragraph (4) must be received at the Patent Office no later than 6 (six) months as of the notification concerning the temporary non-operation or dissolution of a micro-organism depository institute.

CHAPTER IV PROCEDURE TO FILE A PATENT APPLICATION

Article 8

- (1) The filing of a patent application may be made directly at the Patent Office or delivered to the Patent Office through the postal service.
- (2) If a patent application is submitted through the postal service, therefore the date of receipt of such documents at the Patent Office shall be deemed as the receiving date of such application.

Article 9

If a patent application has fulfilled the requirements as referred to in Article 2 and the patent application fee has been paid, the Patent Office shall determine its filing date.

CHAPTER V
ALTERATION OF THE TYPE OF PATENT APPLICATION

Article 10

Any change in a patent application must be submitted in writing to the Patent Office before a decision concerning the granting or rejection of a patent application is made by the Patent Office.

Article 11

- (1) A change in the type of patent application must be stated in the form as contained in the enclosure of this Decision together with the requirements for each type of patent, along with the payment of a fee which has been stipulated in the Decision of the Minister of Justice Number M.04-HC.02.10 Year 1991 concerning the Requirements, Time Frame, and Procedure to Pay Patent Fees.
- (2) A change from a simple patent application to a patent application must be made before a decision concerning the granting or rejection of the simple patent application is made.
- (3) A change from a patent application to a simple patent application must be filed before the relevant patent application is published by the Patent Office.

Article 12

- (1) The number of inventions in a patent application shall be declared as more than 1 (one) by the Patent Office if the claims of invention in the relevant patent application consists of more than one of the following groups of claim :
 - a. an independent claim concerning a specific product, an independent claim concerning a process to manufacture such product, and an independent claim concerning the use of such product; or
 - b. an independent claim concerning a specific process, an independent claim concerning an apparatus or machine which is necessary to carry out such process; or
 - c. an independent claim concerning a specific product, an independent claim concerning the process to manufacture such product, and an independent claim concerning an apparatus or machine which is necessary to carry out such process.
- (2) The invention as referred to in paragraph (1) may be filed separately in 2 (two) or more patent applications, each of which shall be completed with a description, claim(s), abstract, and drawing(s) in accordance with the results of such division along with the payment of the patent application fee for the subsequent patent application.
- (3) The invention as referred to in paragraph (1) shall be determined in order, based on the sequence of the claims contained in the relevant patent application.
- (4) If the patent application as referred to in paragraph (1) is not refiled separately within the time frame specified by the Patent Office, then only the first invention shall be examined by the patent examiner.

**CHAPTER IV
CLOSING**

Article 13

This Decision shall be effective as of the date of its enactment.

Enacted in Jakarta
on October 22, 1991

(official stamp of the Minister of Justice of Republic of Indonesia)	MINISTER OF JUSTICE OF THE REPUBLIC OF INDONESIA (signed)
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ISMAIL SALEH SH

DECISION OF THE MINISTER OF JUSTICE
OF THE REPUBLIC OF INDONESIA
NUMBER : M.07 - HC.02.10 YEAR 1991

CONCERNING

THE FORM AND REQUIREMENTS FOR A PATENT
SUBSTANTIVE EXAMINATION APPLICATION

MINISTER OF JUSTICE OF THE REPUBLIC OF INDONESIA

Considering : a. that in order to conduct a substantive examination on a patent application, it is necessary to regulate provisions concerning the form and requirements for a Patent substantive examination application as stipulated in Article 55 paragraph (3) of Law Number 6 Year 1989 concerning Patent;

b. that based on such consideration as referred to in letter a. it is necessary to stipulate the Decision of the Minister of Justice concerning the Form and Requirements for a Patent Substantive Examination Application.

- In view of :
1. Law Number 6 Year 1989 concerning Patent (State Gazette Year 1989 Number 39, Supplement to the Gazette Number 3398):
 2. Decision of the President Number 15 Year 1984, concerning The Organizational Structure of Departments as amended several times, the latest by the Decision of the President Number 32 Year 1988 for the Ministry of Justice;
 3. Decision of the Minister of Justice of the Republic of Indonesia Number M.02.PR.07-10 Year 1989 concerning The Organization and Work Procedure of the Ministry of Justice;
 4. Decision of the Minister of Justice of the Republic of Indonesia Number M.04-HC.02.10 Year 1991 concerning The Requirements, Time Frame, And Procedure to Pay Patent Fees.

D E C I D E S :

To enact : DECISION OF THE MINISTER OF JUSTICE OF THE
REPUBLIC OF INDONESIA CONCERNING THE FORM AND
REQUIREMENTS FOR A PATENT SUBSTANTIVE EXAMINA-
TION APPLICATION

Article 1

- (1) A patent substantive examination application for a patent application shall be submitted by the person filing the patent application.
- (2) The patent substantive examination application as referred to in paragraph (1) shall be submitted in writing to the Patent Office.

Article 2

- (1) A patent substantive examination shall be made by filling out a form provided by the Patent Office.
- (2) The format of the form as referred to in paragraph (1) shall be as contained in the Enclosure of this Ministerial Decision.

Article 3

A fee shall be imposed on a patent examination application, the amount of which has been determined in the Decision of the Minister of Justice of the Republic of Indonesia Number M.04-HC.02.10 Year 1991 concerning The Requirements, Time Frame, and Procedure to Pay Patent Fees.

Article 4

The fee for a patent substantive examination must be paid upon the submission of a patent substantive examination application.

Article 5

A patent substantive examination application shall include the following:

- a. a copy or photocopy of the receipt of a patent application;
- b. Evidence of payment of the patent substantive examination fee as referred to in Article 3.

Article 6

This Decision shall be effective as of the date of its enactment.

Enacted in Jakarta
on October 29, 1991

{Official stamp
of the Minister
of Justice of
the Republic of
Indonesia)

MINISTER OF JUSTICE
OF THE REPUBLIC OF INDONESIA

(signed)

ISMAIL SALEH SH

Directorate General of
Copyright, Patent, and Trademark
Ministry of Justice

PATENT SUBSTANTIVE EXAMINATION APPLICATION FORM

I/we^{*)} :

Name :

.....

Address :

.....

Telephone :

filing/processing the filing of^{*)} the patent application
under:

Registration Number of

Patent Application :

Title of Invention :

.....

.....

hereby request for a substantive examination to be conducted
on such patent application.

I/We herewith enclose the evidence of payment for substantive examination.

This application is submitted in order to be further processed.

.....

Applicant,

(sign)

.....

Note:

*) Delete where necessary.

DECISION OF THE MINISTER OF JUSTICE
OF THE REPUBLIC OF INDONESIA
NUMBER : M.08 - HC.02.10 YEAR 1991
CONCERNING
RECORDATION AND REQUEST FOR COPIES OF PATENT DOCUMENT

MINISTER OF JUSTICE OF THE REPUBLIC OF INDONESIA

Considering : a. that in order to expedite and improve the service to public, it is necessary to regulate rules concerning the recordation and request for copies of patent documents as the implementation of Article 67 paragraph (2) of Law Number 6 Year 1989 concerning Patent;

b. that based on the consideration referred to in letter a, it is necessary to stipulate the Decision of the Minister of Justice concerning Recordation and Request for copies of Patent Documents,

In view of : 1. Law Number 6 Year 1989 concerning Patent (State Gazette Year 1989 Number 39, Supplement to the Gazette Number 3398);

2. Decision of the President Number 15 Year 1984, concerning The Organizational Structure of Departments as amended several times, the lastest by the Decision of the President Number 32 Year 1988 for the Ministry of Justice;
3. Decision of the Minister of Justice of the Republic of Indonesia Number M.02.PR.07-10 Year 1989 concerning Organization and Work Procedure of the Ministry of Justice;
4. Decision of the Minister of Justice of the Republic of Indonesia Number M.04 - HC.02.10 Year 1991 on The Requirements. Time Frame. and Procedure to Pay Patent Fees.

D E C I D E S :

DECISION OF THE MINISTER OF JUSTICE OF THE
REPUBLIC OF INDONESIA CONCERNING RECORDATION
AND REQUEST FOR COPIES OF PATENT DOCUMENTS

Article 1

- (1) Any competent person may request :
- a. a copy of patent application documents or simple patent documents which have been published;

b. a copy of patent or simple patent documents;

excerpt from the Patent Rolls.

(2) The request as referred to in paragraph (1) shall be submitted to the Patent Office by filling out a form provided by the Patent Office.

Article 2

(1) A fee shall be imposed on the request referred to Article 1, the amount of which has been determined in the Decision of the Minister of Justice Number M.04 - HC.02.10 Year 1991 concerning the Requirements, Time Frame, and Procedure to Pay Patent Fees.

(2) An example of the form referred to in Article 1 paragraph (2) shall be as contained in the Enclosure of this Decision.

Article 3

(1) The request as referred to in Article 1 may be approved upon the fulfillment of the requirements referred to in Article 1 paragraph (2) and Article 2 paragraph (1).

(2) The Patent Office shall record the request for a copy or excerpt as referred to in Article 1 paragraph (1) upon the approval of such request.

Article 4

This Decision shall be effective as of the date of its enactment.

Enacted in Jakarta
on October 29, 1991

Official stamp
of the Minister
of Justice
of the Republic
of Indonesia

MINISTER OF JUSTICE
OF THE REPUBLIC OF INDONESIA

(signed)

ISMAIL SALEH SH

Directorate of Patent
Directorate General of
Copyright, Patent, and Trademark
Ministry of Justice

APPLICATION FORM FOR COPY OF PATENT DOCUMENTS AND OR EXCERPT
FROM PATENT ROLLS

I/we^{*)} :

Name :

.....

Occupation :

Address :

.....

Telephone :

herewith submit an application for a copy of patent documents and
or excerpt from the Patent Roll^{*)} as follows :

- Copy of Patent Documents :

Country :

Number :

.....

.....

.....

.....

.....

.....

- Excerpt from the Patent Roll or patent under number :

.....
.....
.....

I/We herewith enclose the evidence of payment for the
aforesaid purpose.

This application is submitted in order to be further
processed.

.....

Applicant,

signed

.....

Note :

*) Delete where necessary
